United States Court of Appeals

for the Second Circuit

APPENDIX

76-6071

IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

B

P/S

W. J. USERY, JR., SECRETARY OF LABOR,
UNITED STATES DEPARTMENT OF LABOR, APPELLANT

v.

COLUMBIA UNIVERSITY, A Corporation, and WILLIAM J. McGILL, Individually and as President of COLUMBIA UNIVERSITY, APPELLEES

Appeal from the United States District Court
for the Southern District of New York

APPENDIX

VOLUME I

PAGINATION AS IN ORIGINAL COPY

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Docket Entries

[Caption Omitted]

DOCKET ENTRIES

DATE	PROCEEDINGS
Mar. 11-74	Filed complaint & issued summons.
Mar. 28-74	Filed defts' affdvt. & notice of motion to consolidate--ret. 4-5-74
Mar. 28-74	Filed defts' memorandum in support of motion.
Apr. 2-74	Filed affdvt. of Helen Bodian
Apr. 2-74	Filed pltff's memorandum in opposition to motion to consolidate
Apr. 1-74	Filed ANSWER of defts. Columbia University & William J. McGill
Apr. 1-74	Filed defts' interrogs. & request for production of documents
Apr. 1-74	Filed 3rd pty. complaint
Apr. 19-74	Filed pltff's affdvt. & notice of motion to amend complaint-ret. 5-17-74
Apr. 19-74	Filed pltff's affdvt. & notice of motion to strike defts' answer - ret. 5-17-74
Apr. 19-74	Filed pltff's memorandum in support of motions
Apr. 16-74	Filed summons with marshals return served Columbia University by E. Thompton 4-8-74 and William J. McGill by E. Thompton 4-8-74
May 3-74	Filed pltffs answers to interrogs.
May 3-74	Filed pltffs request for admissions.
May 13-74	Mailed notice of reassignment.
May 20-74	Filed defts' affdvt & notice of cross-motion Re: answers to interrogs. Ret. 5-24-74
May 20-74	Filed defts' memorandum of law.

Docket Entries

DATE	PROCEEDINGS
May 20-74	Filed memo endorsed on motion filed this date- This motion is assigned to Magistrate Goettel to hear and report--So Ordered--Owen, J.
Apr. 23-74	Filed order consolidating this action with 73 civ. 2687 for trial only. Trial date set for Sept. 9, 1974--Owen, J. mailed notices.
May 21-74	Filed Pltffs. Memorandum of Law.
May 21-74	Filed Pltffs. Reply Affidavit in opposition to defts. cross motion to compel discovery, by Helen Bodian.
May 23-74	Filed Pltff's Reply Memorandum of Law in support of Motion to strike defense.
May 28-74	Pre Trial conf. Goettel.
Jun 11-74	Filed Report & Recommendation by Magistrate Goettel.
Jun 10-74	Filed Defts. Response to Pltffs. Interrogs. & Request for Admission
Jun 10-74	Filed Defts. - 3rd pty pltff. Notice of Deposition of pltff. on 6/20/74
June 14-74	Filed Defts. Memorandum of Law
June 20-74	Filed Memo. End. on motion dtd. 4/19/74. The first affirmative defense alleging provity between the Sec. & the Walker Pltff.s is stricken, etc. the Second affirmative defense alleging the failure to join as necessary parties persons presently employed by defts. as indicated is stricken as indicated, etc. 3) I deny the motion to strike the 3rd & 4th defenses at this time. These motions may be renewed as appropriate hereafter. 4) Upon the consent of defts. the 5th affirmative defenses alleging the Sec.'s failure to state a claim for relief is stricken. Owen J. (mailed notice)
June 24-74	Filed 2nd memo. End. on motion dtd. 5/20/74. Defts. Motion is denied except that the Dept. of Labor should produce any statements in their possession taken form pltffs. in the Walker v. Columbia action 73 Civil 2687. So Ordered Owen J. (mailed notice)

Docket Entries

DATE	PROCEEDINGS
Jul 3-74	Filed 3rd pty deft. Notice of Motion. Re: Dismiss 3rd pty Complaint. ret. 7/19/74.
July 3-74	Filed Memorandum in support of 3rd pty defts. motion to dismiss.
Jul 29-74	Filed transcript of record of proceedings, dated 4/5/74 (filed also in 73 Civ 2687)
Aug. 15-74	Filed Pltffs. memorandum in support of 3rd pty defts. motion to strike 3rd pty complaint
Aug 22-74	Filed Deposition of Abraham Klainbard on 7/9/74 (mailed notice)
Aug 22-74	Filed Deposition of George Barish on 7/8/74 (mailed notice)
Aug 22-74	Filed Deposition of Norman Brombe g on 7/8/74 (mailed notice)
Aug 22-74	Filed Deposition of Edward T. Weintraub (mailed notice)
Aug 23-74	Filed Memorandum in opposition to motion to dismiss third pty complaint.
Aug 29-74	Filed pltff's request for discovery and production of documents
Sep. 3-74	Filed Magistrate Goettel Report and Recommendation. (filed in 73 civ. 2687)
Sep. 3-74	Filed memo endorsed on motion filed 7-3-74--Decision reserved until the conclusion of trial....Owen, J. Mailed notices.
Sep 10-74	Filed Pltffs Request for admissions.
Sep 10-74	Filed Pltffs. Second request for production of documents.
Sep 10-74	Filed Request for discovery & production of documents for inspection, *& copying or photographing under rule 34.
Sep 10-74	Filed Memo. End. on Request dtd. 9/10/74. Certain question being raised & decision having been reserved, they are disposed as indicated.Etc. Folling my examination I am to receive from the Secretary a specific description of what is desired from the materials. Owen J. (mailed notice)

Docket Entries

DATE	PROCEEDINGS
Sep. 19-74	Filed pltff's 3rd request for discovery
Oct. 8-74	Filed defts 3rd pty pltff's affdvt & notice of motion to strike notice of exam. Ret. 10-18-74
Oct 15-74	Filed Pltffs. Answering Affidavit in opposition to defts motion to strike pltffs Notice of deposition by Jay S. Berke
Oct 23-74	Filed Answering Affidavit by Robert S. Stitt for the deft. 3rd pty pltff. Columbia University.
Oct. 24-74	Filed memo endorsed on motion filed 10-8-74-- (motion to strike notice of exam.) The motion is disposed of in accordance with the minutes dated Oct. 18, 1974- Owen, J.
Oct. 30-74	Filed pltff's notice to examine deft. before trial.
Sept. 9-74	Before Owen, J.-Non-Jury Trial Begun.
Sept. 10-74	Trial Cont'd
Sept. 11-74	" "
Sept. 16-74	" "
Sept. 19-74	" "
Nov. 6-74	" "
Nov. 7-74	" "
Nov. 11-74	" "
Nov. 12-74	" "
Nov. 13-74	" "
Nov. 14-74	" "
Nov. 18-74	" "
Nov. 19-74	" "
Nov. 20-74	" "
Nov. 21-74	" " and concluded-Decision Reserved.
Dec. 3-74	Filed transcript of record of proceedings of 10-18-74. (filed in 73civ2687)
Mar 21-75	Filed Pltffs. Reply to dfts. Post Trial Memorandum.
02-17-76	Filed Opinion 3892 - The complaint is dismissed..... Owen,J. (mailed notice) (filed in 73 Civ. 2687)
02-19-76	Filed Judgment - That the complaint & 3rd Pty actions are dismissed .....Clerk (filed in 73 Civ. 2687) (mailed notice)

DATE	PROCEEDINGS
03-01-76	Filed Amended Judgment that the complaint of Pltff. Brennan is dismissed and that the University Defts. recover costs as taxed by the Clerk from the U.S. Dept. of Labor and the complaint of the Walker Pltffs. and the cross claims and 3rd Pty claims between the University Defts. & the Union Defts. are dismissed without costs.....Owen,J. (Judgment Entered 3-2-76.....Clerk. (filed in 73 Civ. 2687 (mailed notice)

Complaint

[Caption Omitted]

COMPLAINT

Plaintiff brings this action to enjoin defendants from violating the provisions of sections 15(a)(2) of the Fair Labor Standards Act of 1938, as amended (52 Stat. 1060, 29 U.S.C. 201-219), hereinafter called the Act, including the restraint of any withholding of payment of compensation found by the court to be due to employees under the Act.

I

Jurisdiction of this action is conferred upon the court by section 17 of the Act.

II

Defendant, COLUMBIA UNIVERSITY, is and at all times hereinafter mentioned was a corporation organized and existing under the laws of the State of New York, having its office and principal place of business at Morningside Heights in the City, County and State of New York, within the jurisdiction of this court. It is and at all times hereinafter mentioned was engaged in, among other things, the operation of an institution of higher education. The defendant University at all times hereinafter mentioned acted directly and indirectly in the interest of an employer in relation to its employees, including but not limited to employees who performed and are performing custodial functions in and on its buildings and grounds.

III

Defendant, WILLIAM J. MC GILL, resides at Morningside Heights, City, County and State of New York, within the jurisdiction of this court and is and at all times hereinafter mentioned was the president of defendant COLUMBIA UNIVERSITY and acts and has acted directly and indirectly in the interest of said defendant in relation to its employees and is and was thus a legal representative of COLUMBIA UNIVERSITY and an employer of employees within the meaning of the Act.

IV

At all times hereinafter mentioned, defendants employed many employees including but not limited to those mentioned in paragraph III above within New York in commerce or in the production of goods for commerce, including employees handling selling or otherwise working on goods that have been moved in or produced for commerce within the meaning of the Act.

V

DEFENDANT, COLUMBIA UNIVERSITY, is and at all times hereinafter mentioned constituted an enterprise within the meaning of section 3(r) of the Act in that at all times hereinafter mentioned it was engaged in the performance of related activities through unified operation or common control for a common business purpose.

VI

The aforesaid enterprise is and at all times hereinafter mentioned was an enterprise engaged in commerce or in the production

of goods for commerce within the meaning of the Act as amended in 1966 in that it has and at all times hereinafter mentioned has had employees engaged in commerce or in the production of goods for commerce, including employees handling, selling or otherwise working on goods that have been moved in or produced for commerce, as alleged, and in that it is engaged in the operation of an institution of higher learning within the meaning of section 3(s)(4) of the Act.

VII

Defendants, employers having employees subject to the provisions of section 6 of the Act, as aforesaid, have willfully and repeatedly violated, and are violating, the provisions of section 6(d) and 15(a)(2) of the Act by discriminating, within their establishment in which such employees have been and are employed, between employees on the basis of sex by paying wages to employees in their establishment at rates less than the rates at which they pay wages to employees of the opposite sex in such establishment for equal work on jobs, the performance of which require equal skill, effort and responsibility, and which are performed under similar working conditions.

VIII

Defendants have willfully and repeatedly violated and are violating the aforementioned provisions of the Act since January, 1972. A judgment enjoining and restraining the violations hereinabove alleged is specifically authorized by section 17 of the Act.

WHEREFORE, cause having been shown, plaintiff prays judgment permanently enjoining defendants and their elected and appointed officers, agents, servants, employees and all persons in active concert or participation with them from violating the provisions of section 15(a)(2) of the Act, and for such other and further relief as may be necessary and appropriate, including the restraint of any withholding of payment of compensation found by the court to be due to employees under the Act, together with interest thereon and costs of this action.

/s/ William J. Kilberg
Solicitor of Labor

/s/ Francis V. LaRuffa
Regional Solicitor

/s/ Helen Bodian
Attorney

U.S. Department of Labor
Attorneys for Plaintiff

[Filed March 11, 1974]

Answer

[Caption Omitted]

ANSWER

Defendants, The Trustees of Columbia University in the City of New York ("the University") and William J. McGill by their attorneys, Thacher, Proffitt & Wood, answering the complaint:

1. Deny that they have knowledge or information sufficient to form a belief as to the allegations contained in paragraph I of the complaint.

2. Admit that the University is a non-profit educational institution chartered under the laws of New York with a principal location at Morningside Heights in the City, County and State of New York and that within its buildings and grounds department are employees who perform duties as light cleaners and persons who perform duties as heavy cleaners; but, except as thus expressly admitted, deny the allegations contained in paragraph II of the complaint.

3. Admit that the defendant William J. McGill resides at 60 Morningside Drive, that he is the President of the University and with respect to its day-to-day operations, chief executive officer; but, except as thus expressly admitted, deny the allegations contained in

paragraph III of the complaint.

4. Admit that the University employs approximately 7,500 persons on a full time basis but, except except as thus expressly admitted, deny that they have knowledge or information sufficient to form a belief as to the allegations contained in paragraph IV of the complaint.

5. Deny that they have knowledge or information sufficient to form a belief as to the allegations contained in paragraph V of the complaint.

6. Admit that the University is a non-profit educational institution but, except as thus expressly admitted, deny that they have knowledge or information sufficient to form a belief as to the allegations contained in paragraph VI of the complaint.

7. Deny the allegations contained in paragraphs VII and VIII of the complaint.

First Defense

8. On or about January 21, 1972, Cora Walker on her own behalf and on behalf of other maids/light cleaners similarly situated, filed a complaint against the University before the New York State Division of Human Rights alleging that maids/light cleaners were entitled to receive the same pay as janitors/heavy cleaners. Five hearings have been conducted. Those proceedings are still pending.

9. On or about June 14, 1973, Mrs. Walker and others commenced an action in this court, 73 Civ. 2687-RO, based on the same grievance.

10. In or about January, 1972, Mrs. Walker or persons acting in her behalf made complaint to the Department of Labor based on the same grievance.

11. Upon information and belief, the Department commenced its investigation in or about January, 1972, at the instigation of Mrs. Walker and her representatives, and at all times pursued its investigation and ultimately commenced this action while acting in privity and in concert with them.

12. Accordingly, the plaintiff herein is bound by all of the foregoing proceedings initiated by Mrs. Walker and her representatives and is subject to all of the defenses which the University has in those proceedings.

Second Defense

13. The Department has failed to join as necessary or indispensable parties, persons whose rights might be adversely affected by the disposition of this case and who should, therefore, be given an opportunity to participate, including:

(a) persons presently employed by the University as heavy cleaners who might be deprived of jobs and seniority rights; and

(b) persons employed by the University as light cleaners whose job descriptions and duties might be changed.

Third Defense

14. The terms and conditions of employment of maids/light cleaners and janitors/heavy cleaners within the University's buildings and grounds department are and, at all material times, have been covered by collective bargaining agreements between the University and the Transport Workers Union of America, AFL-CIO and its Local Union No. 241. (collectively called "the Union")

15. The University negotiated and executed the foregoing collective bargaining agreements in the firm belief that the terms and conditions contained therein, including the job descriptions (incorporated by reference) and the wage differentials for the janitor/heavy cleaner, maid/light cleaner and other job classifications were fair, reasonable and non-discriminatory.

16. The current collective bargaining agreement was approved by the membership of the Union, with full knowledge of the different job descriptions and different wages paid to heavy cleaners and light cleaners and with knowledge of the proceedings pending in the State Division of Human Rights and, upon information and belief, the aforementioned investigation by the Department of Labor.

17. Since the class for whose benefit the Department has allegedly brought this action would be estopped from claiming that the wage differentials between heavy cleaners and light cleaners and other provisions in

the foregoing collective bargaining agreements are unlawful, the Department is estopped from making any claim for back pay.

Fourth Defense

18. The Labor Department did not commence this action until March 11, 1974, more than two years after commencing its investigation.

19. Accordingly, any claims which the Department might otherwise properly assert, including claims for injunctive relief and back pay, are barred by laches or by any Federal or State statute of limitations which may be applicable.

Fifth Defense

20. The Department has failed to state claims upon which relief may be granted.

WHEREFORE, the defendants request that the complaint be dismissed and that they be granted costs, disbursements and other just relief.

Dated: New York, New York
March 29, 1974

THACHER, PROFFITT & WOOD

By Robert S. Stitt
A member of the firm
Attorneys for defendants
Columbia University and
William J. McGill

[Filed April 1, 1974]

Opinion and Order

[Caption Omitted]

OPINION AND ORDER

OWEN, District Judge

There are two actions before me. The first is by plaintiffs Cora P. Walker, et al., against their employer, Columbia University, a non-profit institution of higher learning, and Transport Workers Union of America, AFL-CIO, and its Local Union No. 241, their unions, alleging sex discrimination in hiring, promotion and pay in violation of the Equal Pay Act, 29 U.S.C. §201, et seq. (hereinafter E.P.A. and Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§2000e-2000e-15 (hereinafter Title VII). The second is by plaintiff Peter J. Brennan, in his capacity as United States Secretary of Labor, for an alleged violation by Columbia of the E.P.A. In the second action Columbia brought in the Unions as third-party defendants.

To maintain various of its class buildings and residence halls, Columbia University has "light" and "heavy" cleaners[1] working under the direction of supervisors. It has security guards to protect these buildings. The heavy cleaners, guards and supervisors all have women among their numbers. There are no men among the light cleaners.

At all material times, Mrs. Walker and the other individual plaintiffs (collectively the "Walker plaintiffs")

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[1] Until 1972, these were respectively called "maids" and "janitors" (included in the janitor category were women called "shower maids").

were employed as light cleaners within the Buildings and Grounds Department of Columbia. The Union has been the exclusive bargaining agent for all of the University custodial and maintenance employees at Morningside Heights since about 1945.

The above entitled actions were consolidated for trial purposes by order dated April 10, 1974 and a lengthy trial was held in installments commencing on September 9 and concluding on November 21, 1974.

As To The Equal Pay Claims:

Columbia, within its Department of Buildings and Grounds and within its Department of Residence Halls has, for at least 30 years prior to March 11, 1971,[2] and continuing to the present, maintained separate job classifications and paid different wages for heavy cleaners and light cleaners. No male has ever applied for a light cleaner position. Some females have applied for and have been accepted as heavy cleaners.

Dating back to at least the early 1940's, the heavy cleaner category has included women charged with the duty of cleaning the lavatories and shower facilities in the dormitories such as Johnson Hall, reserved exclusively for women ("shower maids"). There are presently two women (one full

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[2] The earliest date mentioned in the Brennan complaint, as amended.

time and one part time) who perform this duty on a permanent basis and receive heavy cleaner pay.

Since the mid-1940's, Columbia has also paid heavy cleaner wages to light cleaners working in the Residence Halls Department for those periods in which they were asked to perform and did perform heavy cleaner duties.

Commencing with the 1970 contract and at all material times thereafter the terms of written job descriptions for each job classification, including heavy cleaners and light cleaners, have been incorporated by reference into the collective bargaining agreements between the Union and Columbia.

The pertinent job description for heavy cleaners, prepared by Columbia under date of November 6, 1969, provides:

> Performs heavy cleaning duties in academic and research buildings including any or a combination of the following;
>
> Operating heavy motor driven cleaning equipment
> Wet mopping floors
> Stripping floors
> Washing walls, glass partitions and blackboards
> Polishing marble or brass
> Moving furniture within rooms being cleaned
> Hosing sidewalks
> Shoveling snow from front stoops and entranceways
> Removing heavy rubbish
> Changing light bulbs and fluorescent tubes
> Turning on and off ventilation equipment
>
> He will also perform such tasks as:
>
> Dusting
> Waxing
> Spot removal of carpeting

Shampooing of carpeting
Washroom and toilet cleaning
Receiving and storing of 55 gallon drums, paper supplies and other housekeeping supplies and equipment.

Janitors are responsible for the safekeeping, minor repairs and preservation of all janitorial equipment. They are also responsible for locking up and securing buildings, offices, classrooms, auditoriums, etc.

The pertinent job description for light cleaners, also prepared under date of November 6, 1969, provides:

Maids perform light cleaning duties in all academic and research buildings and are usually limited to such tasks as:

Sweeping
Dust mopping
Vacuuming
Dusting and polishing furniture
Emptying wastebaskets
Removing finger marks and wall washing as high as they can reach without using stepladders or other devices.

Maids are also responsible for policing ladies' toilets and refurbishing supplies in same including sanitary napkins, toilet tissues, towels and soap.

From the record, I find that heavy cleaners perform heavy cleaning services such as removing heavy rubbish and garbage, cleaning and sanitizing public lavatories, and wet mopping corridors, stairways, elevators and lobbies. These tasks are performed by the heavy cleaners on a daily basis. Heavy cleaners are assigned to lobbies, stairways, elevators, corridors and public lavatories, public areas used by countless persons each day. Heavy cleaners are also assigned to high places requiring the use of ladders. They are also

responsible for all custodial work which is performed alone at night in off-campus buildings located outside the University's security perimeter. In addition, heavy cleaners do "project work" which includes stripping floors, waxing floors, shampooing carpets, washing walls, high dusting and venetian blind cleaning. Such project work is performed on a regular, rotating basis throughout the University's buildings. Some heavy cleaners use expensive motor driven floor machines to scrub and strip floors, wax and buff floors and shampoo carpets.

Heavy cleaners also use the following:

(a) Heavy Mopping Equipment - this equipment includes two 44 quart pails plus ringers, a dolly and solution which weigh from 60 lbs. empty to 140 lbs. full and mop trucks which come in two sizes - 30 gallons and 60 gallons and which weigh from 160 to 200 lbs. empty and from 300 to 540 lbs. full.

(b) Trash Trucks - these trucks are approximately six feet long, three feet wide and six feet high and weigh from 200 lbs. empty to 800 lbs. full. These trucks must be loaded and pushed to dumping areas daily.

(c) Industrial Type Wet/Dry Vacuum Cleaners. These machines, much larger and heavier than the upright household types used by the light cleaners, range from 74 to 96 lbs. empty and from 122 to 192 lbs. full.

(d) Carpet Shampoo Machines - such motor driven machines weigh approximately 75 to 88 lbs. empty and from 110 to 123 lbs. with solution.

(e) Pile Lifters - these motor driven machines weigh approximately 75 to 88 lbs. empty and from 110 to 123 lbs. with solution.

(f) 55 Gallon Drums - these drums contain cleaning solvents which, depending on the type of solution, weigh from 400 to 600 lbs.

Light cleaners, pursuant to the foregoing job description, are limited to doing light cleaning services such as dusting desks, tables and chairs, dust mopping floors, vacuuming, spot cleaning walls (no higher than they can reach), polishing desks, emptying ashtrays, and, with some exceptions, wastebaskets. When absences occur, light cleaners are instructed to fill in for other light cleaners but they are never required to fill in for heavy cleaners. Light cleaners are assigned to reading rooms, seminar rooms, laboratories, classrooms and offices and some private lavatories. Light cleaners' equipment consists of rags, sponges, dustpans, dust mops, toy brooms, upright household vacuum cleaners, manual carpetsweepers and occasionally light wet-mopping equipment. Some carry their equipment in wastemobiles, carts, pails or shopping bags.

The collective bargaining agreements between the University and the Union have long provided for a grievance procedure which has been used to insure Columbia's compliance

with the job descriptions.[3] Most complaints of this nature are resolved at the supervisory level. Supervisors and employees are well aware of the demarcation line between the duties of light cleaners and heavy cleaners and supervisory personnel regularly monitor the work of heavy cleaners and light cleaners to insure that the distinction between the two jobs is maintained. If an overlap in the duties occurs, supervisory personnel will order appropriate corrective action. Thus, heavy cleaners, not light cleaners, empty the wastebaskets in a number of locations, including the Journalism Building, where wastebaskets contain magazines, books and other heavy material.[4]

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[3] Since 1945, all collective bargaining agreements between Columbia and the Union have contained the following provision:

> An employee temporarily performing the work of another employee in a job classification to which a higher rate of pay is attached shall receive such higher rate for the time during which he performs the work of the employee in the higher classification.

So far as the record reveals, no claims have been asserted against Columbia pursuant to this clause.

[4] See n.9, infra.

Collective bargaining agreements between the University and the Union are usually renegotiated every two years. Dating back to the 1940's, women have always been members of the Union's negotiating committee and, since at least 1950, women have also been members of Columbia's negotiating team.

After agreement has been reached at the bargaining table, the terms of the proposed contract are explained to the membership and a secret ballot is taken. After approval by the membership of the local, the contract is executed, printed and copies distributed.

The 1970 agreement between the Union and Columbia was negotiated in good faith, and as in the case of previous agreements, with women on both sides of the bargaining table. Three light cleaners were members of the Union's negotiating committee. Both sides were represented by experienced labor counsel. An official of the Federal Mediation and Conciliation Service attended the last eight sessions and was instrumental in reaching agreement. There was no Union proposal that the pay scales for heavy cleaners and light cleaners should be the same.

The Equal Pay Act forbids wage discrimination "between employees on the basis of sex" when employees perform "equal work" on jobs in the same establishment requiring

"equal skill, effort and responsibility, and which are performed under similar working conditions . . . ."[5] In any E.P.A. action the threshold question always is: are the jobs equal. Plaintiffs have the burden of proving that as the aggrieved parties they perform equal work, not merely that a wage differential exists and that the jobs are similar.[6]

> [T]he complaint must be dismissed even if the wage differentials were unreasonably large in comparison with the actual differences in skill, effort, responsibility or working conditions and were based on discriminatory motivation; Congress did not intend to put either the Secretary or the courts in the business of evaluating jobs and determining what constituted a proper differential for unequal work.[7]

I conclude that plaintiffs have failed to sustain their burden. While there are many similarities between the work done by the light cleaners and heavy cleaners, their work is not the same.

In deciding that the jobs of light cleaner and

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[5] 29 U.S.C. §206(d)(1)(1970). See generally, Ross & McDermott, The Equal Pay Act of 1963: A Decade of Enforcement, XVI B.C. Ind. & Com. L. Rev. 1 (1974).

[6] Corning Glass Works v. Brennan, 417 U.S. 188, 196 (1974).

[7] Hodgson v. Corning Glass Works, 474 F.2d 226, 231 (2nd Cir. 1973), aff'd sub nom. Corning Glass Works v. Brennan, 417 U.S. 188 (1974).

heavy cleaner are unequal under the E.P.A. standard, I have not considered the use, by some heavy cleaners, of heavy floor stripping machines. First, not all heavy cleaners use these machines nor even know how to. The fact that some men may occasionally do different work would not justify a differential paid to all men. Hodgson v. Brookhaven Gen. Hosp., 436 F.2d 719,725 (5th Cir. 1970). Second, Columbia treats the use of the stripping machines as project work for which it pays a per hour premium. Availability for project work for which a premium is paid is not an allowable reason for unequal pay where the jobs are otherwise the same. Corning Glass Works v. Brennan, supra (shift differential paid).

I affirmatively find, however, that the jobs of light cleaner and heavy cleaner are different. Going beyond the job descriptions,[8] from the extensive testimony adduced before me at the trial, it is clear that the job of heavy cleaner involves greater effort than that of light cleaner.[9]

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[8] See text pp.4-5, supra.

[9] The employees themselves recognize the difference, light cleaners being quick to protest doing certain heavy cleaner work. In 1971, a group of light cleaners complained that they had been obliged to haul heavy garbage at one of the buildings. This was corrected by a night superintendent who directed the heavy cleaners to haul away such trash.

Finding no violation of the E.P.A., the action of the Secretary of Labor is dismissed. Columbia's third party action against the Union is likewise dismissed.

As To The Title VII Claims:

With Title VII, Congress mandated that the courts look at the entire spectrum of employment practices when allegations of sex discrimination are made.[10] While a finding that the E.P.A. was not violated does not preclude a finding of a Title VII violation, Hodgson v. Golden Isles Convalescent Home, Inc., 468 F.2d 1256 (5th Cir. 1972) (per curium), the evidence on the trial has not made out such a claim.

As a background for consideration of the claims of the named plaintiffs, I find the following facts. Columbia's

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10 42 U.S.C. § 2000e-2(a) provides:

> It shall be an unlawful employment practice for an employer--
> (1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's . . . sex . . .; or
> (2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's . . . sex . . . .

employees have been, and still are, notified of promotional opportunities within Columbia by postings placed in conspicuous places throughout the University, including bulletin boards by the time clocks used by employees in the Buildings and Grounds and Residence Halls departments. Such postings are not restricted as to sex. It is Columbia's practice that present employees receive initial consideration for any and all job vacancies.

The foregoing posting procedure wasalso included in Columbia's affirmative action plans approved by the United States Department of Health, Education and Welfare in 1972.

Very few women ever applied or expressed interest in a heavy cleaner position. Some testified that they never applied for a heavy cleaner position because they could not perform heavier work.

In August 1972, the University posted job openings for six heavy cleaner positions within the Buildings and Grounds Department. Ten light cleaners applied. All were interviewed. Two asked that their names be withdrawn. Seven commenced training! Mrs. Moss, who testified on this subject, stated she received encouragement from the supervisors and was treated fairly.

After periods ranging from approximately three to seven weeks, Nellie Diaz, America Francisco, Catherine Nesbitt and Mrs. Moss transferred back to light cleaner at their own

request. In October 1972, Rachael Boler, one of the seven, after having signed posted notices, accepted a position as security guard, which she still holds. Helen Gilliam and Betty Thomas continue to be employed through the present date as heavy cleaners within the Buildings and Grounds Department. Columbia posted openings for six additional heavy cleaner positions in September-October 1972, with light cleaners being given the first opportunity to bid these new positions. Notwithstanding these and additional postings, no additional light cleaners have ever applied for jobs as heavy cleaners.

There are women supervisors who have heavy cleaners as well as light cleaners under their direction: the head housekeeper in the Residence Halls, the executive housekeeper and the staff decorator in Buildings and Grounds. One Mrs. Tookes, a light cleaner, was offered a supervisor's job in 1968 or 1969 but refused the position.

Class action status was denied by Judge MacMahon. Only three of the named plaintiffs, Pearlie Dickens, Cora Walker and Sarah Moss testified. As to their claims of violations of Title VII, I find the following facts:

Mrs. Dickens was told about a maid's job at Columbia by a friend. She applied for night work since she had children. Night work was not available and she started working

in the day time. Several months later, a night job became available, which she took. She never applied at any time for a janitor's job. She knew of the availability of janitors' or heavy cleaners' jobs, having seen the postings in 1972 and 1973 near her time clock. She knew of other light cleaners applying for heavy cleaners' jobs in 1972 and knew that two had been hired and were working as heavy cleaners.

Mrs. Walker was told by a male employee that he thought "they was accepting applications . . ." and she should try for a job at Columbia. She filed an application and two months later got a job as a light cleaner. There came a time when she and thirty others were notified of a proposed layoff. She tried for similar work at other places Columbia recommended but without success. Before the time for the layoff, someone in the union told her to go sign her name for a security guard's job that was posted. She thereafter had an interview, nothing came of it and, since the layoff was cancelled, she continued to work as a light cleaner. Thereafter over the next year and a half she signed up for guard three times more before eventually being hired. She was rejected on the earlier applications, being told that they had found someone more experienced. Along the way she took a course at Columbia in English grammar which would be of help to her in the reports she would be required to write. During the times of her earlier

rejections, Columbia hired four women as guards and rejected some male applicants for guard positions. Also, I note that in August 1972 Mrs. Walker applied for a job as a heavy cleaner but when it was offered to her she did not accept it.

I find that a friend told Mrs. Moss that Columbia was hiring in August of 1969 and she applied for a night job. Two months later, an opening occurred on the night shift and she went to work as a light cleaner. In January 1972 she was notified of termination along with thirty others and went to the Personnel Office and asked for an application for the heavy cleaner's position. She was told by a woman she saw that the office did not have any applications and she was told to come back. Apparently, she did not go back. At a later point, she filed certain unspecified charges as to which the record is silent with the New York State Division of Human Rights and thereafter attended a meeting at which Columbia officials were present. She told about asking for a form and being told to come back and was immediately offered a job on the day shift as a heavy cleaner. She turned it down since she could not work days. The layoff as a light cleaner being cancelled, she continued working and saw a posted notice for

a heavy cleaner working at night. She signed up for it and was hired and put in training with several other women. During the course of the training, she did not like the uniform furnished (a man's pants and shirt) which apparently ill-fitted her. She complained and was given a better fitting uniform. It appears that the training period for Mrs. Moss and other heavy cleaners was longer than the average period for newly employed male heavy cleaners, but I am unable to conclude on the record that the difference was occasioned by any sexual discrimination. Mrs. Moss forthrightly testified that both supervisors Shervington and Thomas were fair to her and gave her nothing but encouragement during the course of her training.

After being employed for some time as a heavy cleaner, Mrs. Moss wished to be transferred to another building. She said it was "nothing personal" between her and her supervisor but she never told anyone at Columbia of any problem. The supervisor of the heavy cleaners, Mr. Shervington, said he would do it within a period of two weeks. Apparently, he was unable to find another spot to which to transfer her immediately and during the time she was waiting, she attended a party to which light cleaners were invited. At the end of the party it was her duty as a heavy cleaner to assist in the cleaning up. A garbage bag

broke making a considerable mess, which she cleaned, but was distressed when her supervisor, Jackson, double-checked her work. She felt she could not take the work anymore and asked to go back to being a light cleaner, which was accomplished. While one may suspect that there was less than warm friendship between herself and her immediate supervisor, I tend to conclude that Mrs. Moss came not to like the job because of its arduousness and the last straw was the fact that her friends in the light cleaning category at the said party had no responsibilities whatever in cleaning up.

Given the foregoing, I am unable to conclude that any individual plaintiff has demonstrated by a fair preponderance of the credible evidence either discrimination as to that plaintiff by reason of sex or any pattern or practice at Columbia of discriminating against women generally.[11] Mrs. Dickens never applied for any other jobs although she knew women were getting them. Mrs. Walker did become a guard and while she was earlier being turned down, Columbia was hiring other women as guards. Mrs. Moss did become a heavy cleaner along with a number of other women. Others

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[11] Given the extensive testimony of various witnesses as to events of recent years at Columbia, the statistical presentation of the Walker plaintiffs stressing years prior to 1971 is not persuasive as to Columbia's picture today, and I give it little weight; see infra.

of those women are still heavy cleaners. At most, one could conclude from some of the proof in the record that from time to time residuary "male chauvinism" on the part of individual employees has evidenced itself. However, this does not make a pattern or practice chargeable to an employer and actionable by an employee. Given this, the Title VII claims of the remaining named plaintiffs are dismissed for failure of proof.

Whatever may have been the validity of the Title VII action had it been instituted prior to 1971, that question is not before me and I need not and do not render any conclusions thereon. While laggards in the march to equality must be judicially prodded, this is not appropriate as to those now in the flow of that march, regardless of when they joined.

The complaints herein are dismissed.

It is so ordered.

United States District Judge

February 11, 1976.

[Filed February 17, 1976]

Judgment

[Caption Omitted]

JUDGMENT

These actions having come on for a consolidated trial before the Honorable Richard Owen on September 9, 10, 11, 16, 19, November 6, 7, 11, 12, 13, 14, 18, 19, 20 and 21, Janice Goodman, Esq. and Carol Arber, Esq. having appeared for the plaintiffs Cora P. Walker, Christina Cruz, Pearlie Mae Dickens, Nellie Diaz, Frances Fries, Gertrude Grant, Laura W. McGill, Sara Moss, Catherine Nesbitt, Nihlet Simmons, Ethel Skipper, Sadie Smith and Lucy Ulysse ("Walker plaintiffs") and Francis V. LaRuffa, Regional Solicitor, United States Department of Labor, having appeared for the plaintiff Peter J. Brennan, Thacher, Proffitt & Wood having appeared for the defendants Columbia University, William J. McGill, the Trustees of Columbia University, and William E. Petersen, ("University defendants") and O'Donnell & Schwartz having appeared for the defendants Transport Workers Union of America, AFL-CIO, Matthew Guinan, Joseph Hanaberry, Local Union No. 241 of the Transport Workers Union of America, James D. O'Brien and William Lyons, ("Union defendants") and the court, having heard the evidence and having been duly advised in the premises and having rendered its decision in writing filed February 17, 1976, representing its findings of fact and conclusions of law, directing judgment for the defendants;

NOW, upon motion of Thacher, Proffitt & Wood, attorneys for the defendant University and its officers, it is

ORDERED, ADJUDGED AND DECREED, that:

1. the complaint of the plaintiff Brennan be and hereby is dismissed and that the University defendants have and recover their costs as taxed by the Clerk from the United States Department of Labor; and

2. the complaint of the Walker plaintiffs and the cross-claims and third-party claims between the University defendants and the Union defendants in each of the above-entitled actions be and hereby are dismissed without costs.

Dated: New York, New York
, 1976

_____
U. S. D. J.

[Filed February 19, 1976]

Amended Judgment

[Caption Omitted]

AMENDED JUDGMENT

The issues in the above consolidated actions having been brought on regularly for trial, before the Honorable Richard Owen, United States District Judge, on September 9, 10, 11, 16, 19 and November 6, 7, 11, 12, 13, 14, 18, 19, 20 and 21, 1974, and at the conclusion of the evidence the Court having reserved decision, and the Court thereafter on February 17, 1976, having handed down its opinion in favor of the defendants, it is,

ORDERED, ADJUDGED and DECREED: That defendants COLUMBIA UNIVERSITY and WILLIAM J. McGILL, President of Columbia University, the TRUSTEES OF COLUMBIA UNIVERSITY, and WILLIAM E. PETERSEN, as chairman of the Board of Trustees, and TRANSPORT WORKERS UNION OF AMERICA, AFL-CIO, and JOSEPH HANABERRY, Vice President, and LOCAL UNION NO. 241 of TRANSPORT WORKERS UNION OF AMERICA, and JAMES D. O'BRIEN, President, have judgment against plaintiffs CORA P. WALKER, CHRISTINA CRUZ, PEARLIE MAE DICKENS, NELLIE DIAZ, FRANCES FRIES, GERTRUDE GRANT, LAURA W. McGILL, SARA MOSS, CATHERINE NESBITT, NIHLET SIMMONS, ETHEL SKIPPER, SADIE SMITH and LUCY ULYSSE, dismissing the complaint in (73 Civil 2687), and it is further,

ORDERED, ADJUDGED and DECREED: That the action of the Secretary of Labor is hereby dismissed, in (74 Civil 1129), and it is further,

ORDERED: That Columbia University's third party action as against theird party defendants be and it is hereby dismissed, in (74 Civil 1129).

Dated: New York, N.Y.
February 19, 1976

/s/ Raymond F. Burghardt

[Filed March 1, 1976]

[Caption Omitted]

NOTICE OF APPEAL

Notice is hereby given that W. J. Usery, Jr., Secretary of Labor, U.S. Department of Labor, plaintiff above named, hereby appeals to the United States Court of Appeals for the Second Circuit from the final Judgment and Order dismissing plaintiff's complaint, entered in this action on the 17th day of February, 1976.

New York, New York

April , 1976

/s/ William J. Kilberg
Solicitor of Labor

/s/ Carin Ann Clauss
Associate Solicitor

/s/ Francis V. LaRuffa
Regional Solicitor

U.S. Department of Labor
Attorneys for Plaintiff

[Filed April 15, 1976]

Amended Notice of Appeal

[Caption Omitted]

AMENDED NOTICE OF APPEAL

Notice is hereby given that W.J. Usery, Jr., Secretary of Labor, U.S. Department of Labor, plaintiff above named, hereby appeals to the United States Court of Appeals for the Second Circuit from the opinion filed February 17, 1976, the judgment filed February 19, 1976 and the final amended judgment and order dismissing plaintiff's complaint, entered in this action on the 2nd day of March, 1976.

New York, New York

April 28, 1976

/s/ William J. Kilberg
Solicitor of Labor

/s/ Carin Ann Clauss
Associate Solicitor

/s/ Francis V. LaRuffa
Regional Solicitor

U.S. Department of Labor
Attorneys for Plaintiff

[Filed April 20, 1976]

[Caption Omitted]

TRANSCRIPT OF THE TRIAL PROCEEDINGS

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P E A R L I E M A E D I C K E N S , called as a witness by the plaintiffs, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. LIBOW:

* * * * * *

Q What job do you hold?

A Maid.

Q How long have you held that position?

A Since August, 1968.

Q For whom are you employed?

A Columbia University.

Q When did you begin work there, if you remember the date?

A August 16, 1968.

Q Were you always employed in the position of maid?

A Yes.

* * * * * *

Q Was there any training for the job?

A No.

Q When you started work as a maid, where were you assigned to work?

A Carmen Hall.

Q You began working during the day?

A Yes.

Q Is this a dormitory?

A Dormitory. Carmen Hall.

Q What were you doing?

A Making beds, cleaning, dusting, and mopping the floors. Just cleaning.

Q How much territory were you assigned?

A I was assigned to 17 rooms a day some days; some days I would be assigned to 14. Part of the floor today and part tomorrow.

Q What chores did you have to do in each of those rooms?

A I would make the beds, change the linens, dust the furniture, mop the floors, clean the washbasin.

Q Did you have a mop to mop the floors with?

A A dust mop.

Q How big was the mop?

A A small mop (indicating).

Q Do you know how many inches it was?

A No, I don't.

Q Do you know how much it weighed?

A About two or three pounds. Very small.

Q Did there come a time when you started to work at night?

A Yes.

Q When was that?

A September 8, 1970.

Q When you began to work at night where were you assigned to work?

A I was assigned at the Butler Library.

Q What were you assigned to do there?

A I was working helping the other maids out until they gave me a release, and this one and that one, until they gave me the two buildings 520, across the street, and 540.

Q That's 520 and 540?

A Yes.

Q West 114th Street?

A Yes.

Q Let's start with 520.

How many rooms were you assigned to clean in 520?

A Five rooms.

Q What were those rooms used for?

A Office.

Q What did ou do in those rooms?

A Five offices, one kitchen, and two bathrooms.

I would clean the office, vacuum, dust, dust the floors that needed dusting, dust the rug, vacuum, scrub, and clean the bathrooms and scrube the kitchen.

Q When you say "scrub the bathroom," did you have a mop?

A A mop.

Q Was it a wet mop?

A A wet mop and a pail.

Q Could you describe for us?

A It was not as big as the one the janitors use now, but it was, I guess, about 16 ounces, or something like that.

Q Did you have a pail?

A A pail.

Q How big was the pail? How many gallons, if you know.

A I guess about two gallons.

MR. STITT: A regular household pail, Mrs. Dickens?

* * * * * *

[50]

THE WITNESS: Yes.

* * * * * *

Q What did you do in the kitchen?

* * * * * *

A In the kitchen? I would wash the stove, the woodwork, the sink, and scrub the kitchen.

Q Scrub the kitchen floor?

A Yes.

Q At the same time you were also cleaning 540 West 114th Street?

A Yes.

Q How many rooms were there?

A It was 14 -- 15 with the kitchen and a basement.

Q How many floors were there?

A Four floors.

Q What kinds of chores did you have to do there?

A There they had wall-to-wall carpets in every room except the kitchen and the bathroom, and they had carpets all the way down the stair steps. I vacuumed, dusted.

Q What kind of vacuum did you use?

A This was a small -- smaller than the one we use now.

Q Do you know how much it weighed, approximately?

A No, I don't.

Q How did You get the vacuum cleaner up and down the stairs?

A I used to carry it myself until I started to complain, and then the janitor, the one that would take me on to this building, he would take it up and I would bring it down.

Q Were you also cleaning bathrooms?

A Yes. Bathrooms and bathtubs.

Q How many bathtubs were there?

A Five bathrooms.

Q What kind of things did cleaning the bathroom consist of?

A Scrubbing the floors; washing the tiles down; cleaning the bathtab, the commode, and a sink and a mirror.

Q Did you use the same mop you used in the kitchen as at 520?

A Yes.

Q Or was it a different one?

A Same one.

Q Did you have a cart?

A No.

Q For your equipment?

A No.

Q Did you empty out garbage as well?

A Yes. We had garbage in with the trash. When they eat, the students, or whoever are there, they would put the garbage in with the trash and this was also garbage too.

Q Do you know approximately how much the garbage weighed each night?

MR. STITT: May we specify what particular point in time?

A I don't know really how much --

THE COURT: Just a second. What time chronologically or what time every evening?

MR. STITT: Are we going to have it by a bag-by-bag load or is she being asked to add up the total number of vags? It is not clear.

THE COURT: I will leave that for cross-examination.

How long did you work in those two buildings?

THE WITNESS: In 520 -- I have been out of there over a year and a half, almost two. Not too long. 540

I left there in January of this year.

Q Did you take out the garbage every night?

A Every night.

Q Was there an average of what the garbage weighed?

A Some nights it was heavier than others.

Q Can you give us an idea of what it weighed when it was very heavy?

A Some nights it was like about five or ten pounds. Then another night I had to go in and take out 25 or 30 pounds when they had bowls.

Q How did you get the garbage down to the street

A I would take it down in a garbage bag.

Q You carried it downstairs?

A I carried it down to the street.

Q You said you stopped cleaning 540 back in January of this year?

A I think so.

Q How did that happen? Were you reassigned?

A I don't know what happened, but I know they transferred me from there. Now it is a man doing it.

Q Do you know who the man is that is doing it?

A No.

Q Were you offered a choice of staying there if you wanted to and getting the janitor's pay?

A No.

Q Did you ever complain about the work you were doing there to anyone?

A No.

Q What are you doing now?

A I am working in the Butler Library.

Q What are you assigned to do?

A I am assigned the seventh floor cubicles which is 60 cubicles.

On the fifth floor I have four rooms, offices, one classroom, a machine room, a Xerox room; and on the second floor I have eight rooms, wall-to-wall carpets; that's the mezzanine. I have to vacuum them.

Q What kind of vacuum do you have to use?

A It is a little heavier than the one I used before.

Q Can you tell us approximately what it weighs?

A It weighs about at least 15 or 20 pounds or more. I don't know exactly. I can't tell you exactly know.

Q What other equipment do you use to clean?

A I use a wet mop for the bathroom, dust mop, and of course, I use a dust mop.

Q Will you describe the bathroom for us.

A The bathroom is not very large. It has two

commodes and one sink in the bathroom.

Q What do you do in the bathroom?

A Clean the bathroom, wash the tiles down

Q Mop the floor?

A Yes.

Q What size mop do you have now? The same size?

A I think it is 16 ounce. I'm not sure. I think so. I'm not sure now. I think so.

Q The pail you have now is the same size as the pail you had?

A Yes.

Q In January, 1972, were you given notice you were going to be laid off?

A Yes.

Q At that time did the University try to give you another job or offer you another job?

A Yes.

Q What job was that?

A They wanted to transfer me to the Medical Center.

Q What happened?

A In the meantime they reinstated all the girls and I didn't go. I stayed there.

Q At the time you were given notice that you were

pgs Dickens-direct [56]

going to be laid off, were you offered the choice to become a janitor or heavy cleaner?

A No.

* * * * * *

Q Did you ever apply for a job as a janitor?

A No.

[57]

* * * * * *

DIRECT EXAMINATION

BY MR. BERKE:

Q Mrs. Dickens, I would like to take you back again to the date when you were hired, which was when?

A August 16, 1968.

Q You say you were employed in which building at that time?

A I was in Butler for a while helping out until they transferred me across the street to 520 West 114th Street and 54 West 114th Street.

Q How long did you remain in Butler?

A I don't remember exactly when they transferred me across the street, but I am still in Butler.

Q At that time was it more than one week?

A Yes. More than a month.

Q About a month. Did you ever clean in any other building in the same day you cleaned at Butler at that time?

A Yes. After I left 520 they gave me a part in Butler and I would work over there.

Q Back in 1968 when you were cleaning in Butler --

A I was not in Butler.

Q For that first month did you ever clean in any other building?

A I was not in Butler in 1968. I was in the dormitories, Carmen Hall.

Q I thought you would say when you started you started --

A When I started nights I was working in Butler in 1970.

Q Back in 1968 your first assignment was what?

A Day work. I was working as a maid in the dormitories.

Q What sort of building is the dormitory? Could you describe how many floors are in it?

A Well, Carmen Hall, I think it is seven or eight floors.

Q How many floors did you clean?

A We was only assigned to one floor.

Q How many rooms did you clean on that floor?

A In Carmen Hall I would clean 12 to 14 a day.

Q What kind of rooms were these?

A They were the students' rooms. Some had bunk beds and some had regular beds.

Q On a typical day back in 1968 when you were cleaning in Carmen Hall, what was the first thing you did when you arrived?

A The first thing I did I was given a cart and taken to my floor. You carry your linens on it. You take your linens up on a cart. You have your schedule on that cart. You have a clean mop, a dust mop, and a wet mop. You take it up to those rooms, dust cloth and and everything. You are assigned to this room, and then they would stand and see if I knew how to make a bed, and that's it. I was on my own then.

Q And this cart, how big was it?

A It was about this long and so tall (indicating). It is a regular cart to have your towels, your sheets, pillow cases on that. On the end you had both mops, and then a

small vacuum cleaner.

MR. BERKE: Could the record indicate that the witness showed as to the size about the width of the witness box, which is four feet and -- how high was the cart?

MR. STITT: One foot wide, Mrs. Dickens?

THE WITNESS: Like this (indicating).

MR. SITT: It is an upright vacuum?

THE WITNESS: Yes.

Q Mrs. Dickens, there is some confusion as to how big the cart was.

How long was the cart?

A That's what I was showing before. This long (indicating), and this high and so wide.

MR. BERKE: I estimate, Mr. Stitt, four feet long and about five feet high and about --

THE WITNESS: It was about five feet long and about four feet high.

THE COURT: About two feet wide?

THE WITNESS: Right.

Q How did You get this cart from one place to another?

A I take it up on an elevator.

Q Who operated the elevator?

pgs Dickens-direct [61]

A We had a service.

Q From the elevator where would you take the cart?

A In the corridors. You would push it right in front of each room you had to change the linen in. You would take the dirty, soiled linen and put it in the bag and the clean linen you take it in the room, change the bed, dust and mop, and then you go on to the next room, push it on down.

Q Could you tell us how you went about changing the bed?

* * * * * *

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* * * * * *

THE WITNESS: First you take all the soiled linen off and then you dust the mattress off; you put the pad on; you take the sheet, the bottom sheet, you take it all the way to the end and you fold it under neatly, lift it up and fold it under, and keep it under all the way around until you get to the bottom, and the top sheet you take the bottom, you start at the bottom, and you come to the top. You fold it under, put your blankets on, you put your spread on, clean pillowcase on, and then you make the bed up.

BY MR. BERKE:

Q Must you lift the mattress at all?

A You have to lift it to fold it under.

Q Must you move the bed?

A To get behind it.

Q How much does the mattress weigh?

A About 25, 30 pounds, I guess.

Q How much does the bed weigh?

A I don't know. It is heavy.

Q What else would you do after you finish making the beds in a typical dormitory room?

A After you make the bed, the next thing you do is sweep the floor. You dust it with a dust cloth. Then you clean the sink. They have a face basin. After you get through throwing the blankets -- you go around and dust and take your wet cloth and wipe the windowsills.

Q what area would you dust?

A Everything you could reach, like the desk, the bed, dust off the railing at the top of the bed, and the closets.

Q How high would you dust?

A As far as I could reach.

Q How low would you dust?

A As low as I could go to the floor.

Q Do you dust behind furniture?

A Yes. We had to pull it out.

Q How did you do that? How did you remove the

furniture?

A I did that. I move it.

Q Who moved it back?

A I did.

Q What sorts of furniture were you moving?

A Some beds.

Q Were these iron beds?

A Some were bunk beds, and when you had those they were very heavy. Bunk beds and then the regular beds.

Q You say the bunk beds were very heavy. What did you have to do so you would know that?

A Because I had to pull them from the wall to get behind them to make them up.

Q Did you have to do them differently than you had to make the regular bed you described to us before?

A No. All the same.

* * * * * *

Q Is there anything else you would do after you

dusted and made the bed in the dormitory room?

A Yes. I had two lounges to do.

Q I am talking only in the bedroom.

A That was all. I did a damp mop, scrubbed the floor. After I dusted I scrubbed it. I washed the sinks, made the beds, washed the woodwork, the windowsills, and dust the furniture. That was all.

Q After each you went from room to room. How many rooms now?

A Some days 17 and then on another day I had 14.

Q After you had finished your last bedroom what did you do then?

A I had two lounges to do.

Q How big was a lounge?

A Almost as large as this room.

Q The size of this room?

A Almost. Not quite. It was as long and about over here (indicating).

MR. BERKE: I am terribly bad in math in estimating distances for the record. I don't know how I would make the size of this.

Q What sort of furniture was there in the room?

A In the lounge? They had a sofa; they had two large sofas, chairs, coffee table, radio, television,

and lamps.

Q And what?

A Lamps.

Q What exactly did you do when you entered the lounge?

A Into the lounge? I would first empty the trash.

Q How would you do this?

A I would empty it in a bag. We had a bag too.

Q You had a bag?

A Yes. We had a bag on the truck.

Q The bag would be on the truck?

A Yes. We would empty that on the truck. Then I would vacuum the rug and after that I would dust the woodwork and the furniture, and that's all I had to do.

Q I am confused. You would use a vacuum in this lounge?

A Yes.

Q Where would that vacuum come from?

A Downstairs. It would be on my cart. I have a cart.

Q So the vacuum would be on the cart you pushed?

A Everything would be on the cart you needed.

Q The vacuum, hoses and brushes?

A Everything would be on there.

Q How much did the vacuum weigh?

A I don't think it weighed over ten pounds. It was small.

Q You vacuumed the rug to that point in the lounge, and what did you then do?

A It would be time to go home when I finished.

Q After you finished the lounges?

A Yes. After that I do some part in the morning and some in the afternoon.

Q Was vacuuming the last task you did in the lounges?

A In the lounges and in the corridors.

Q You did the corridors after the lounges?

A Yes.

Q How much of the floor did you do?

A About 28 rooms of it every day.

Q So you did a corridor spanning 28 rooms, and how wide was that corridor?

A About as wide as from over there to here (indicating). It was wide.

MR. BERKE: Could we stipulate about eight or ten feet, your Honor?

THE COURT: Mr. Stitt?

MR. STITT: I'm not conceding the materiality or

this testimony at all. It has to do with the Residence Halls back before 1970. I believe the complaint here speaks of March 1st, 1971 as the earliest possible date. If my adversary says eight or ten feet, I am inclined not to argue.

THE COURT: Eight to ten feet then.

Q After you did the corridor what would do next?

A Go downstairs and get dressed and go home.

Q What would you do with your cart?

A Take it downstairs and put it in the linen room.

Q Mrs. Dickens, after you worked at Carmen Hall when did you say you were switched?

A I was transferred from Carmen Hall to John Jay.

Q What kind of building is John Jay?

A Same as Carmen Hall.

Q A dormitory?

A Dormitory.

Q What were your duties there?

MR. STITT: May we have a date fixed, please?

Q Could we fix the date you were transferred to John Jay Hall?

A I don't remember the date, but I can find it out.

Q Could you estimate the date?

A It was about six months after I started that I

pgs Dickens-direct [69]

was switched.

Q When you were at John Jay what was your assignment? What areas were you assigned to clean them?

A I had the 14th floor.

Q How many rooms?

A It was 34 rooms.

Q 34 rooms?

A Ye.

Q Mrs. Dickens, you had 17 rooms back in --

A I didn't do all 34 in one day.

Q Tell us how you did the rooms in one day?

A I would do a certain amount of rooms each day.

Q How many?

A At John Jay I would do at least eight rooms a day.

Q Were these rooms the same size as the ones --

A Same size, and then I would clean down the doors and the corridors, all the doors; I would have to shine the doors.

Q What would you shine them with?

A Polish, rag and polish.

Q Were the doors higher than you are tall?

A They were h igher than I am tall. Like this one (indicating).

Q You had to reach to clean the top?

MR. STITT: What part would you shine? I saw the witness point to the doorknob.

THE WITNESS: All of it. I had a stool I could stand on so I could reach it.

Q You had to stand on what?

A I had a little small stool that I could stand on so I could reach the top.

Q Where did you get the stool from?

A I had it on my cart.

Q How many times during a given day at John Jay did you climb up on that stool?

A Once a week I cleaned the doors like that.

Q You had to climb on it each time you cleaned a separate door?

A Yes.

Q What were you holding in your hands when you climbed on the stool?

A Nothing when I climbed up. My cart was right there so I could get my polish off the cart and my rag. I didn't have to pick anything up.

Q While you were on this stool you had to reach down?

A No, no. The cart was right by me. The only thing I had to do was reach down -- reach down, it is true.

but if the cart was high enough I had to reach and pick it up. I didn't have to bend and pick it up.

Q After you cleaned the doors and the eight rooms in John Jay, what would you then do?

A I would count the linen and throw it down the chute.

Q How many linens would you count out?

A According to the beds I had. Sometime I would have 28. I changed each bed every day and I had a towel for each bed, a pillowcase for each bed, two sheets.

Q Did you ever have to carry all these linens at one time?

A I had a bag on the truck. I put them in the bag and I wrote it down to the chute.

Q You pushed the truck which carried all these linens at one time?

A Yes.

Q What did You do after you co unted the linens?

A I would go down sometime and help in the linen room, help clean there if I had spare time. But if I didn't have spare tim it would be time to go home.

Q When you cleaned in the linen roo m what would you do?

A Just help place the linens in certain racks.

They had racks you keep your linen in. Place it in the racks and I fix my cart, the linens that I would need the next day.

Q Were any of the racks above your head?

A No.

Q After you worked at John Jay what was your next assignment?

A Furnald Hall.

Q What sort of building was this?

A It is a dorm too.

Q What was your routine?

A Cleaning, dusting. Clean the lounge.

Q Did you do vacuuming?

A Yes. The lounge and the corridors and some of the rooms that had rugs on them I would vacuum. All of them didn't have them .

Q Did all of these dorms have bunk beds and regular beds?

A All of them -- not all the rooms. It was, I think, about eight or ten rooms on each floor had bunk beds, but not all the rooms -- some had single beds.

Q When did you stop working at Furnald Hall?

A I stopped there in September.

Q September what?

pgs Dickens-direct [73]

A Probably September 6, because I went to work at Butler September 8th.

MR. STITT: What year?

THE WITNESS: 1970.

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Q The last dorimitory we are speaking of was named what?

A Furnald Hall.

Q How long did you work in there?

A I worked there about a year, about a year and a half.

Q At the end of that year where did you then work?

pgs Dickens-direct [74]

A I was transferred to the Butler Library, Columbia University.

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[77]

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Q Let's go to your duties in Butler Hall.

You were on the night shift and arrived there at what time?

A To work? I would arrive some time a quarter to 12. I am not supposed to go to work until 12. I get off at 8.30.

Q What is the first thing you did back in 1970

when you started?

A When I first started there I was helping the other girls until they found a replacement to replace me. I was working all over from one floor to the other. I helped this one one day and that one one day -- one night, rather.

Q How many floors are there in the building?

A Including the cubicles there is nine.

Q When you finally got a regular assignment what was that regular assignment?

A Well, now, I have the seventh floor, cubicles; five rooms on the fifth floor; eight roo ms on the second floor mezzanine and the bath.

Q What did you clean first, the first thing in the day?

A When I got there?

Q Yes.

A When I get there the first thing I do is fill in for some of them that is out, vacations, and we have to fill in for those that are out.

Q Do you ever fill in for a man or did you ever fill in for a man back in 1970?

A No.

Q Have you ever filled in for a man?

A No.

Q Has it ever been offered to let you fill in for a man?

MR. STITT: I object to the form of that question.

A No.

THE COURT: I will sustain that.

Strike the answer.

Q After you fill in, how long a period would you do that fill-in work?

A Sometimes an hour. It is according to how much we have to do.

Q What sort of work would that be?

A It would be emptying the trash, dusting, mopping, cleaning the stacks.

Q After you do fill-in work then where do you go?

A To my seventh floor cubicles.

Q Describe what a cubicle looks like?

A It is a small room. Some have two desks and a book case, two chairs.

Q It is your duty to clean the cubicle?

A I have to dust and empty garbage.

Q Is that all you do in a cubicle?

A Mop the floor.

Q Do you know how big the mop is, the dust mop?

A 24 inches.

pgs Dickens-direct [80]

Q When you say "dust," what exact areas do you dust in the cubicle?

A You empty ash trays first. You dust the desk, the book case. If it is one desk, one desk; if there are two desks, two desks. Some have three desks. You dust the desks, the book cases, the chairs, the windowsills, and the cabinets, the file cabinets.

Q Are there books on the shelves?

A Some have them.

Q What do you do with the books?

A I don't move them. I dust around them.

Q How many of these cubicles do you have to do?

A 60.

Q How long does that take you?

A Sometimes two hours. Sometimes longer. It is according to what condition they are in. If they are not really bad --

Q The trash from these cubicles, was that emptied?

A I put it in the bag and -- I don't have a cart. I pull the bag. I pulls it in a bag, take it from the seventh floor to the elevator.

Q After you finish with your 60 cubicles, what do you do then?

A I go to the fifth floor.

Q How do you get there?

A On the elevator.

Q Self-service elevator?

A Yes.

Q What do you do on the fifth floor?

A I clean the room. You have two room s with machines and little desks. I wash the decks and the next room I cleans, I dust mops the floor, the windowsills, and the cabinets, and the next room is a little camera room like. I dust that and sweep the floor.

Q What is in the camera room?

A Machines.

Q Do you have to dust around the machines?

A I dust them too. They leave the window up and the dust blows in and I have to dust them.

Q Did you ever break a machine?

A No.

Q Do you take any particular precautions not to do that?

A Yes.

Q What precautions?

A I be very careful not to break them.

Q You have been told what the consequences would be if you broke them?

A I have never been told but I have an idea.

Q Do you know what sort of machines they are?

A Some of them are movie cameras and some are radios and different things.

Q Do you have to move them?

A I don't move them.

Q After you clean that room with the cameras then where do you go?

A Classroom.

Q What is in a classroom?

A Desks, chairs.

Q Desks and chairs?

A Desks and chairs and the blackboard. They have a blackboard. I don't do that. They have writing on it and I don't erase it.

Q What do you have to do in a classroom?

A Dust the desks, any chairs, mop the floor. I mop the floor firs.t

Q What kind of mop?

A Same 24 inch.

Q Wet or dry?

A Dry.

Q Does the classroom have tiers? It is not a lecture hall?

A Just a classroom.

Q Do you know how many chairs are in there?

A No. I didn't count.

Q When you dust them and you dust mop do you have to move the chairs?

A Yes, pull them out.

Q How far do you have to move them?

A Move them out on the floor so you can get under them to mop.

Q You have to put them back?

A Yes.

Q What do you do after you leave the classroom?

A I go into the next room. They have a lot of machines in there and I dust the decks and the chairs.

Q What kind of machines do they have in there?

A Well, all kinds of machines. I don't know.

Q You say you dust the decks and chairs. Do you have to wash down the desks?

A Yes, and wax them too.

Q When would that be?

A Well, I wax them once a week, but I dust them every night.

Q What do you wax them with?

A Not wax them, polish them.

Q With what?

A Polish. The company furnishes nice polish for me to keep them shiny.

Q What is on the desk? Anything?

A On the desk is not anything there now because they remodeled that room now.

Q You say there is nothing on them now. Has there ever been anything on the desks?

A There used to be books and things. Not now.

Q What about pen markings on the desk?

A Not yet.

Q Were there ever pen markings on the desk that you cleaned?

A Yes.

Q Where were those desks?

A On the desks in the classroom and in other rooms you go into.

Q It is your responsibility to get those pen markings off?

A I can't do that. If they cut into them I can't get them off. I wash them off and put polish on them and shine them up.

Q After you do the classrooms then what?

A Well, I go to the mezzanine.

Q What is there?

A In the mezzanine they have offices, eight offices, wall-to-wall carpets. Some offices have two desks and some have one and some have four. I dust. I vacuum.

Q Where do you get the vacuum from?

A They have a closet upstairs in the mezzanine.

Q How many rooms do you have to clean?

A Eight.

Q Where is the closet situated on the floor?

A On the end near the bathroom.

Q How do you get the vacuum cleaner to the furthest room from the closet?

A Roll it on down the hall.

Q Is this the same vacuum you used on the cart?

A No.

Q It is different?

A Yes.

Q How big is this vacuum?

A It is a heavy one. I guess it weighs 20, 25 pounds. I'm not sure.

Q Have you ever at any time observed a male custodian using that vacuum?

A No, I have not. I have been so busy I don't see what they do.

Q What do you do now quickly on the mezzanine?

A I vacuum, dust, and the rooms that have the white desks, I wash them, and the rest of them I take a dust cloth and dust them and dust the chairs, he windowsills, the air-conditioners.

Q You mentioned a white desk?

A They have some desks that are up there that have the white top to them.

Q You clean them differently?

A You have to. You have to wash them with soap and water.

Q Where do you get the soap and water?

A I take it upstairs and keep it in a closet upstairs.

12 Q You take it up in what?

A In a can.

Q In a pail?

A No, in a can.

Q You take the water up in a can.

A I have a bathroom up there. I get water out of the bathroom. The soap I get from downstairs in the stockroom.

Q How many flights is that?

A I only have to walk one flight down and then I

pgs Dickens-direct [87]

take the elevator down to the basement and I go and walk around to the stockroom and get that and take it out.

Q After you clean the mezzanine where do you go?

A It is time to go home.

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[FOR PURPOSES OF THIS APPENDIX T E CHRONOLOGICAL ORDER OF THE ORIGINAL TRANSCRIPT HAS BEEN ALTERED SO THAT THE TESTIMONY OF CERTAIN WITNESSES COULD BE SET OUT IN ITS ENTIRETY]

[149]

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DIRECT EXAMINATION

BY MR. BURKE:

Q Mrs. Dickens, just for clarify's sake, I would like to fix the time period in which you were employed at the various buildings which you have been cleaning since you were a maid or light cleaner for Columbia.

For what period of time did you clean the Residence Hall?

A From 9 o'clock in the morning --

Q What period of time? The dates.

A From August 16, 1968 until September 8, 1970.

Q How many hours a day did you work at that time?

A Six hours.

Q Six hours. Did you have a lunch period?

A Yes.

Q Were uou paid on an hourly basis? Do you know?

A Yes.

Q In September of 1970, you began cleaning where?

A Butler Library.

Q Where are you cleaning now?

A Butler Library.

Q Did you clean any buildings in the interim between September 8, 1970, when you started at Butler Library, and the present date?

A Yes.

Q What other buildings did you clean?

A 520 West 114th Street, 540 West 114th Street.

Q Between what dates did you clean 520 West 114th Street?

A I don't have the exact date, but it was between October and November 1970 until just for one year.

21 Q When you say between October and November, you mean that it was the starting date?

A Yes.

Q You say you cleaned it for how long?

A It was for a year, just about a year.

Q Did you clean any other buildings?

A 540.

Q When did you start cleaning 540?

A The same time that I started 520.

Q How long did you clean 540?

A Up from between October and November of 1970 until January of 1974.

Q So there was a period of time when you cleaned in a given day in Butler Library, in 520 West 114th Street, and in 540 West 114th Street; is that so?

A Yes.

Q Can you give us some idea at that time when you were cleaning in the three buildings within the same day as to what your day would be? What would be the first thing you would do? Go through the day.

A When the maids were out I would have to stay over an hour each day and help clean the trash, and then they would take me over to 520. From 520 I would go over to 540.

Q You say they would take you over. Who took you over?

A The supervisor, either one of the janitors.

Q Did you take any equipment between the buildings?

A Yes.

Q What equipment?

A Dust mops, dust cloth, soap.

Q Who carried that equipment?

A I did.

Q What shift were you on at that time?

A From 12 until 8.30 in the morning.

Q That was the night shift?

A Yes.

Q You always walked escorted? Were you always escorted by a man when you walked?

A A man or a supervisor.

Q The supervisor always walked with you?

A Some time when she was with you, or one of the janitors would take me over.

Q You said "she." You mean a lady walked over with you?

A Yes.

Q Sometimes a janitor walked over with you?

A Yes.

Q I think we pretty well got the duties at Butler Hall.

Could you tell us exactly what you did in 520 West 114th Street?

A I cleaned such as vacuumed, dust mopping, wet mopping the kitchen, bathroom, cleaning the bathroom, scrubbing the kitchen and woodwork.

Q What length of time in a given day would you work in 520?

A Just about an hour.

Q From the time you entered at the beginning of that hour what would you do?

A Well, I would be helping the girls empty the trash, taking it out, different parts of the building.

Q And then what would you do?

A Then I would go over to the other buildings after I finished over there.

Q You mentioned a kitchen and a bathroom.

A The kitchen -- We had a kitchen at 520.

Q What did you do there?

A In the kitchen? I cleaned the stove, the Frigidaire, the sink and washed the cabinets, get the finger marks off the cabinets, and scrubbed the floor.

Q With what?

A The mop, the scrub mop

Q When you say "scrub," is that wet or dry mop?

A It is a wet mop.

Q You use a pail?

A Yes.

Q And a wringer?

A Yes. My hands.

Q Where would you get the pail and this equipment?

A I had taken it over from Butler.

Q When you were done with the pail who cleaned it out?

A I did.

Q You mentioned bathrooms in 520. Did you have the responsibility for cleaning bathrooms at 520?

A Yes.

Q How many bathrooms?

A Two.

Q What was in each of the bathrooms?

A Bathtub, sink, commode.

Q A bathtrub? What kind of building was this?

A It was living quarters before and they converted it into office and they had bathrooms in it.

Q So how many days a week would you clean the bathrooms?

A The bathroom I would clean every day.

Q Particularly what things in the bathroom would

you clean every day?

A The tub. I would wash the tubs and the sink and the commode. I didn't scrub the bathroom floor every day.

Q Aside from the garbage, the kitchens, and the bathrooms at 520, did you do anything else at 520?

A Vacuum, mop, dust.

Q Where did you vacuum?

A There was a rug in the hall.

Q As to 540, what type of building was 540?

A It was an apartment house Until they remodeled it into an office.

Q How much time on a given day did you spend cleaning 540?

A Sometimes seven, sometimes six, sometimes five. It is according to how the building was left, you know.

Q When you say "seven, six, and five," you mean hours?

A Hours a day. That was when I didn't have to be into Butler. Most of the work -- it didn't take me as long in 520 as it did in 540.

Q When you had to clean in Butler, you would spend less time in 540?

A 520.

Q I am speaking of 540 now.

A 540? I always had to spend a certain length of time in 540.

Q What was the general length of time you had to spend in 540?

A About five hours.

Q What was the general length of time you had to spend in Butler?

A One.

Q One hour?

A One hour.

Q And the general length of time --

A 520, some time an hour and some time an hour and a half. Sometimes it was more filthy than any other times.

Q What did you do in 540?

A I vacuumed.

Q What rooms did you clean?

A All of them.

Q What kinds of rooms were they?

A They were offices.

Q Were there bathrooms that you cleaned there too?

A Yes.

Q Hallways?

A I didn't have any hallways. I had stairways,

Q You cleaned the stairs?

A Yes.

Q What did you clean the stairway with?

A I would clean it with a broom, sweep it down, because I could not use the vacuum on it.

Q You vacuumed the hallways?

A There was not a hallway. It was stair steps.

Q What area did you vacuum?

A Just the rooms, the floors. I vacuumed the offices.

Q What size vacuum did you use?

A Well, I don't know what you call it. I don't know whether it was a Hoover or what make it was.

Q Was it a home-size vacuum or industrial?

A It seemed to me it was a little larger than a home size.

Q How many floors did you clean in that building?

A Four.

Q How did the vacuum get from floor to floor?

A I would take it from floor to floor.

Q You would take it?

A I would carry it down.

Q Did you ever have to carry it up?

A Yes, before I started to complain about it.

Q Do you recall when you complained about it?

A I had been complaining about it quite a while and eventually a man took it up for me.

Q Or a woman?

A A man.

Q At the time when they told you that the man would take it up for you, did they also give you any backpay?

A No.

MR. STITT: May we identify "they"?

THE COURT: Yes.

Q Do you recall when that was when the man began to take it up for you?

A i can't give you the exact date on that, but I know it has been over -- it was over two years ago.

Q Let me direct your attention back to your employment in the Residence Hall in 1968 until September of 1970. We had a great deal of testimony about your duties. I wanted to ask you a few limited questions.

Did you do anything different in the summer in the Residence Hall than you would do throughout the year?

A Yes.

Q Tell that to the Court.

A Yes.

During the summer, when the students were away,

we had to wash down, wash out, all the furniture, the drawers of the dressers, clean the spring, mattress, all the beds, just give the place a thorough cleaning during the summer. It was to be cleaned for when the students returned.

Q Could you just, to be clear, tell us what you would do in a student room in the summer.

A In the room we would take out every drawer in the dresser of the chest of drawers. We had a pail. We would take soap and water and wash it out and clean it off and dry it. Then we would put polish on them.

The springs on the bed, we would take a damp rag and go through the springs and get all the dust and everything. If there were any left we would get that off.

We would wash the woodwork and be sure that everything was properly cleaned.

Q Who directed you to do this?

A Our supervisor.

Q Did you receive any extra pay for this work?

A No.

THE COURT: May I suggest the form of that question is bad.

Q Did you receive additional pay for the hours you

worked on those tasks?

A No.

Q Your pay was the same?

A Yes.

Q It was the same during the summer as it was during the rest of the year?

A Yes.

Q It was an hourly rate you received?

A Yes.

MR. BERKE: No further questions, your Honor.

THE COURT: Mr. Stitt, how long are you going to be?

MR. STITT: I believe I will be at least an hour with this witness.

THE COURT: Do you want to start and go ten minutes or would it be better if you --

MR. STITT: I think there are a few preliminary items.

CROSS EXAMINATION

XX BY MR. STITT:

Q Mrs. Dickens, you are a party in this action?

A Yes.

Q You mentioned buildings:

Carmen Hall, John Jay, and Furnald Hall?

A Yes.

Q Is it true they are all residence halls and all in the Residence Hall Department?

A Yes.

Q They are not in the Buildings and Grounds Department?

A No.

Q You were transferred to Butler in 1970, which is the Buildings and Grounds Department?

A Yes.

Q And that's where you have been ever since?

A Yes.

Q Is it not a fact that you were transferred from the Residence Halls Department to the Buildings and Grounds Department at that time because of a curtailment of maid service in the Residence Halls?

A Yes.

MS. GOODMAN: Objection, your Honor. There is no foundation for that. I don't know where Mrs. Dickens would have her knowledge.

MR. STITT: I believethat she has answered yes.

THE COURT: The witness said yes.

Q Weren't you transferred with approximately 16 maids at the same time.

A I don't know how many other maids were transferred.

Q But others were transferred in a group with you?

A Yes.

Q Wasn't that to avoid a layoff at that time?

A To avoid a layoff?

Q Yes.

MS. GOODMAN: I object.

MR. BERKE: I object.

THE COURT: Objection as to form, sustained.

Q You mentioned a layoff notice in January of 1972. This is some time later while you were in the Buildings and Grounds. Is it not a fact that that layoff was never imposed?

A Yes.

Q You have never, in fact, been laid off by the University?

A No.

Q Before we leave the Residence Halls, you mentioned that you changed linen. Is it not a fact that this was done just once a week per bed?

A Yes.

MR. BERKE: Yes, it was not a fact --

THE COURT: Once a week per bed?

THE WITNESS: Yes.

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BY MR. STITT:

Q During your direct examination you testified about certain toilets or bathrooms which you cleaned at Butler and, I believe, at 540 and 520 on occasion?

A Yes.

Q How did those bathrooms which I believe you described as family-type compare with the public --

MS. GOODMAN: Objection. I don't believe there was any testimony as to their being a"family-type," which is a conclusory statement.

THE COURT: I think Mr. Stitt is going to refer to a deposition.

Q Do you remember testifying before the State Division of Human Rights on June 12, 1972, on or about that date?

A About bathrooms?

THE COURT: Do you remember giving testimony before the State Commission?

THE WITNESS: Yes.

Q At page 62, lines 3 to 9 of the transcript, were

you asked these questions and did You give these answers?

"Q You also mentioned that you do part of your shift over at 540 West 114th Street?"

"A Yes.

"Q Is this a brownstone-type building?

"A Yes.

"Q Are these household-type bathrooms?

"A Yes. Family bathrooms, bathtub and shower."

Were you asked those questions and did you give those answers?

A That's correct.

Q How do you compare the bathrooms that you did at 540, 520, and Butler with the public lavatories at Butler?

A I had one toilet, call it a bathroom, at 540. Of the four with bathrooms, there was a tub, a shower, a commode, and a face bowl, medicine cabinet.

Q Are you familiar with the public lavatories at Butler?

A Yes.

Q Would you describe them for us, please.

A The one that I clean?

Q I am talking about the large public lavatory, the men's room, the women's room.

A I don't go into the men's room.

Q Have you ever been in the large women's room?

A Yes.

23 Q Describe that for us, please.

A I don't know how many stools they have, but I do know -- commodes, rather -- they have a mirror, face bowls, and a commode.

Q How many commodes?

A I don't know.

Q Aas many as ten?

A I don't know.

Q More than just one or two?

A More than two.

Q Isn't it true that the janitors at Butler clean these larger lavatories?

A Yes.

MR. BERKE: I would object to that last question because I feel that it is assuming general knowledge. She answered yes, but I think you would have to lay a foundation that she, in fact, observed janitors --

THE COURT: I will let you ask those questions on redirect examination.

Q You also mentioned during your direct testimony, Mrs. Dickens, a wet mop which you used to clean these "johns"--

pgs Dickens-cross [170]

if I may use that term -- at 540, 520, and Butler, did you not?

A Yes.

Q How much does that mop weigh?

A I don't know. We don't have any scales there. We have not weighed them. I don't know.

Q What is your best estimate?

A I don't know how much they weigh when they are wet.

Q How much do they weigh when they are dry?

A I still have not weighed them. I don't know.

Q To supplement your testimony, were you asked these questions at pages 41 and 42 and at page 66 of your testimony before the State Division of Human Rights? I begin at line 20 on page 41:

"Q What kind of equipment do you use to scrub the floor?

"A Wet mop.

"Q About how much does it weigh?

"A I don't know. It weighs 14 or 16 ounces. I don't know.

"Q 14 or 16 ounces?"

And now I pick up at page 66:

"Q This is this 14-ounce mop you talked about

before?

"A 14-ounce, 16-ounce, I don't know which."

Were you asked those questions and did you give those answers?

A I did. I still don't know.

Q Isn't it true that the wet mop which the janitors use is heavier than the wet mop you would use for these jobs?

MS. GOODMAN: Objection, your Honor.

THE COURT: On what ground?

MS. GOODMAN: No foundation was laid as to whether she really knows the answer to that question.

THE COURT: I do not think this is one that requires a foundation.

Overruled.

Q To supplement your testimony, were you asked the following questions at page 77 of your testimony before the State Division of Human Rights, beginning at line 7?

"Q What have you seen them do?"

Parenthetically I would say the transcript shows that "them" refers to the janitors.

"A Scrubbing. I have seen that.

"Q Scrubbing with a mop?

"A Yes.

pgs Dickens-cross

"Q Do you scrub with a mop?

"A Yes. I scrub with a mop, yes.

"Q Is there any difference between the mop you use and the mop they use?

"A Theirs is a little heavier."

Were you asked those questions and did you give those answers?

A Yes, I did.

Q Is it also true that you filled plastic bags with wastepaper?

A Pardon me?

Q You filled these plastic bags with wastepaper from the wastepaper baskets?

A Yes.

Q You testified you gave certain estimates as to how much they weigh. In any event, after you finished with a bag of wastepaper you then take it to the elevator and you leave it?

A Yes.

Q At that point it is the janitor who has charge of that bag, whether it weighs 40 pounds or 20 pounds?

A Yes.

Q Do the janitors then pick up your bags and the other bags and take them down the elevator?

A Yes.

Q Does the janitor put them in trash trucks?

A Yes.

Q Does the janitor then push these trash trucks containing all of this rubbish out the back door of Butler?

A Yes.

Q And then to the street?

A Yes.

Q You have seen them, have you not?

A From across the street I have seen them.

Q When you were over at 540 you could see them pushing it right out the back of Butler?

A Yes. I could see them come out the back door.

Q You testified also about vacuum cleaners. Is it true that the vacuum cleaners you have used are of the upright household type?

A It looks like one, but it is heavier than the one you would use in your home.

Q Is it true that the vacuum cleaner at 540 was somewhat lighter than the one you use at Butler Hall?

A Yes.

Q Is it true that this vacuum was carried up to the top floor of 540 and 520 for you by a janitor?

A 540, yes.

MR. BERKE: I object to that o n the basis of time. I would like to have the time. The testimony on direct was that at one point it was carried Up by a janitor and at one point it was not. I would ask for a fix on time on that.

Q Was there an occasion when you testified before the Division of Human Rights on June 12, 1972, that is, at that time were you working at 540, and did the janitor carry up your vacuum to the top floor?

A Once in a while they did until I started to complain, but after then he would take it up every time I had to use it. I would bring it down.

THE COURT: In other words, it was carried up from time to time?

THE WITNESS: Yes.

THE COURT: After you complained it was carried up all the time?

THE WITNESS: Yes.

Q Had you made that complaint before you testified before the State Division of Human Rights on June 12, 1972?

A Yes, I had.

Q Was this step taken as a result of the complaint or grievance which you had made?

pgs Dickens-cross [175]

A Yes.

Q To whom did you make this complaint?

A To my supervisor.

Q You told us before about your female supervisor in the Residence Hall. Is it also a fact that your supervisor at Butler Hall and 540 was a woman?

A Yes.

Q She is still your supervisor?

A Yes.

Q Give us her name?

A Miss Parnella.

Q As a result of your making your grievance to Miss Parnella, this change was made in your routine?

A Yes.

* * * * * *

* * * * *

Q You are not required to move desks, are you?

A No.

Q You don't move desks, do you?

A No.

Q You are not required to use ladders or platforms, are you?

A No.

Q You do not use ladders or platforms, do you?

A No.

Q I believe you mentioned earlier back at the Residence Halls using a stool in John Jay. Could you describe that stool for me and I will try to give measurements without a ruler.

Q It is a little small stool. I can't measure it. I don't know how many inches, feet, or nothing. It is a small stool about this long, like this, and so tall.

MR. STITT: Indicating about eight inches tall and maybe a foot or 14 inches wide.

MS. GOODMAN: Could we measure that.

THE WITNESS: It is wide.

Q How heavy was this stool? Could you pick it up with one hand?

A Yes.

pgs Dickens-cross [178]

Q You are not required to work on platforms, are you?

A No.

Q You are not required to use floor machines, are you?

MR. BERKE: Your Honor, I will object to this line of testimony on the ground that there has been no foundation as to what a platform is or what a floor machine is.

THE COURT: A platform speaks for itself.

Perhaps a foundation should be laid as to what a floor machine is.

I sustain the objection to that extent.

Q Do the janitors at Butler use floor machines?

MR. BERKE: Objection on the same ground.

THE COURT: What is a floor machine?

Q Have you ever seen a floor machine at Butler Library?

A What kind of floor machine?

Q A machine that is motor-driven and used for stripping, for example?

A Yes. I have seen it.

Q Are these machines also used for other things such as waxing?

A I don't know.

Q Buffing?

A I don't know. I have seen them.

Q Shampooing carpets?

A I have not seen anybody shampoo a carpet.

Q Have you ever been trained in the use of these machines?

A No.

THE COURT: What is this floor machine like? Is it square? Is it round? Does it have a circular head at the bottom?

Q Is this floor machine about 17 to 23 inches in diameter?

A I have not measured it. I don't know.

THE COURT: Whether or not you measured it, does it have a big wheel at the bottom that goes around and around?

THE WITNESS: I don't know. I have seen it standing still. I don't know.

THE COURT: It has a circular bottom?

THE WITNESS: I have never seen it underneath. I have seen it standing up.

THE COURT: What do you see when you are looking at it?

THE WITNESS: In the stock room?

THE COURT: What does it look like?

THE WITNESS: Just a big machine with two handles on it with which to push it. I have not seen them --

THE COURT: More than that you cannot tell us?

THE WITNESS: No. I don't know what they do with them. They could be for shampooing; they could be for waxing. I don't know.

Q By "they," you are referring to the janitors who are the heavy cleaners?

A Right.

Q You are not required to use these machines, are you?

A No.

Q You do not, in fact, use these machines, do you?

A No.

Q Going forward as to what janitors do, you have testified about the janitors who carried your vacuum to the top of 540 and you have testified about the heavy trash being picked up in the elevators and put in trash trucks and pushed out in the back to the street.

Is it true you have seen janitors scrubbing floors?

A Yes.

Q Is that in Butler that you saw this?

A Yes.

Q What areas have you seen janitors scrubbing?

A In the corridors.

Q Have you seen them scrubbing the stairways?

A No.

Q Have you seen them scrubbing the elevators?

A No.

Q Have you seen them scrubbing in public lavatories?

A No. I don't go into lavatories. I don't have time.

Q Are you called upon to scrub the corridors at Butler, in any event?

A Yes, the mezzanine.

Q With a wet mop?

A Yes. If the floor has coffee or something on it I damp mop it.

Q You just spot clean?

A Yes.

Q Do you also spot the walls at Butler?

A Yes.

Q You do that just as high as you can reach and no higher?

A Yes.

pgs Dickens-cross [132]

Q In fact, you are not required to do any work that is higher than you can reach, right?

A Yes. Right.

MR. BERKE: That's a conclusion. She has already testified she had to use a stool.

MR. STITT: That goes back to ancient history in the Residence Halls.

THE COURT: I will allow the answer to stay.

You may examine the witness.

Q Do you scrub the stairways at Butler?

A Yes. The mezzanine. I damp mop them.

Q Is that spot mopping again?

A Damp mop it down.

Q You have seen janitors strip the floors, have you not?

A I seen them in there.

Q In there?

A In the rooms.

THE COURT: So I understand, what do you mean by stripping?

Q Tell us what stripping is.

A I have seen them in there. I don't know what they are doing. I see them in there with the machines. I don't know what they are doing.

pgs Dickens-cross [183]

Q At page 78 of your transcript before the State Division of Human Rights were you asked these questions and did you give these answers?

"Q Do you strip floors?

"A No.

"Q Do janitors strip floors? Have you seen them strip floors?

"A I seen them with the machine, yes."

Were you asked those questions and did you give those answers?

A Yes.

MS. GOODMAN: Objection. That's totally consistent.

He is using that to supplement the record? I'm unclear.

THE COURT; Your characterization, Ms. Goodman, to me as a trier of the fact -- that is something for me to assess.

I will allow it to stand.

Q Although we are in the month of September, isn't it true that janitors shovel snow?

A Yes.

MR. BERKE: Objection again as to whether she observed it. That's a foundation question.

pgs Dickens-cross [184]

Q You have observed janitors shoveling snow, have you not?

A Yes.

Q You have seen them shovel snow in front of 540?

A Yes.

Q That's over the steps and right in front of the building?

A Yes.

Q You were asked as part of your direct testimony about when you first applied for a position with Columbia. Is it true that when you applied you did not ask about a janitor's job?

A No.

Q You did not ask about a janitor's job?

A No.

Q As a matter of fact, you have never asked about a janitor's job at Columbia; isn't that true?

A I have not.

Q After June 12, 1972, did you ask about a janitor's job?

A No.

Q Isn't it true that notices of heavy cleaner or janitor's jobs are posted and have been over the past few years?

A Yes.

Q Are they posted near the time clock where you punch in and punch out?

A Yes.

Q You have seen these notices for those heavy cleaner jobs in 1972?

A Yes.

Q And in 1973?

A I don't remember.

Q Do you recall six heavy cleaner jobs being posted for the Buildings and Grounds Department in or about mid-August of 1972?

A I don't remember.

MR. STITT: May I have the plaintiffs' exhibit on that point, please?

(Pause.)

Q I am going to direct your attention to Exhibit 8-E. I ask you if that refreshes your recollection about a posting of six heavy cleaner jobs within the Buildings and Grounds Department on or about August 14, 1972?

MR. BERKE: Your Honor, may I see what she is looking at?

THE COURT: Just a moment. Stay where you are.

A Yes. I remember seeing this.

Q Isn't it true that a number of women, maids, light cleaners, applied for those positions at or about that time?

A Yes.

MR. BERKE: Objection. That's rank hearsay, your Honor. If she didn't observe them apply but only was told they applied, that's the rankest kind of hearsay there is.

THE COURT: Are these people parties to this action?

MR. STITT: Mrs. Dickens is.

THE COURT: Are any of those parties to this action?

MR. STITT: Two of them are parties. Mrs. Moss is one of those who applied, and she is a party to this action.

MR. BERKE: I object until we find out it was a statement by parties to this action made to Mrs. Dickens.

Q Do you remember, Mrs. Dickens --

THE COURT: Mr. Stitt is treating the objection as having been sustained and going about it in another manner.

Q Do you remember a group of seven women, light

cleaners, former maids, beginning training as heavy cleaners within the Buildings and Grounds Department in or about August of 1972?

MR. BERKE: I object. Either she heard about it or saw it. Otherwise it is hearsay. I don't know whether she observed that they were training or was told. He is asking her --

THE COURT: It is going to her state of mind. It is admissible. It is her knowledge of what opportunities were open, and on that ground I will allow it.

A Yes. I remember. I didn't ask for it because I was doing janitor work already.

MR. STITT: I move to strike that answer, the latter part of that answer. Everything after the word "Yes."

MS. LIBOW: I would object to that. Mr. Stitt asked the question. We are talking about the witness' state of mind and that is her state of mind.

THE COURT: Her state of mind is that she knew these people were taking training and the rest is volunteered.

Strike it.

Q Isn't it true that two of those women who applied were Hellen Gilliam and Betty Thomas?

A Yes.

Q Isn't it true that Miss Gilliam and Miss Thomas completed their training or probationary period?

A I don't know.

Q Do you know Miss Gilliam and Miss Thomas?

A Yes. I know them when I see them.

Q Are they still employed by Columbia University?

A Yes. I don't know. I think so.

Q Isn't it a fact that they are employed in the capacity of heavy cleaner?

A I don't know that.

Q Isn't it a fact that they have been employed as heavy cleaners and paid as heavy cleaners since August of 1972?

MR. BERKE: I object. I cannot see any foundation for her knowledge on that fact.

MS. GOODMAN: Objection.

MR. BERKE: We do not know if she works in the same building with these women.

MS. GOODMAN: If I could say something:

We did offer, at one point, a stipulation as to wages of the employees, or things like that. We have not heard from the defendants.

THE COURT: Unless I am mistaken, this is being offered to show that Mrs. Dickens had available to her the

opportunity to apply for a heavy cleaner's job, and you are endeavoring to show that she knew it was open to her and that some women had applied for it and at least two had been accepted for such employment.

MR. STITT: Yes, your Honor

THE COURT: On that basis I will permit her statement of knowledge as to the fact. Whether the knowledge is right or know, it is what she understood.

Q Is that what you understood, Mrs. Dickens --

MR. BERKE: Objection. I do not think she knows the question.

MS. GOODMAN: May the question be repeated.

THE COURT: Was it in August of 1972 that two women were heavy cleaners?

MR. STITT: That seven were put on status. Two of them --

MR. BERKE: Mr. Stitt is testifying.

MR. STITT: I am answering the Court's question. There is no dispue about it. Two of the seven, Miss Gilliam and Miss Thomas, did qualify.

THE COURT: The question was whether she knew that in August of 1972.

THE WITNESS: Yes. I remember when the ladies were hired.

Q Do you remember Miss Gilliam and Miss Thomas qualifying as heavy cleaners?

A I heard about it. I don-t know. They don't work with me.

MR. STITT: Your Honor, I ask that this next document in my hand be received as University Exhibit A.

MR. BERKE: We have no objection to it except that the names of the individuals who signed the document are not clear. If they were to be read into the record we would have no objection to the exhibit.

THE COURT: Does Plaintiff Walker have any objection?

MS. GOODMAN: No objection with that correction.

MR. DRYFOOS: The union has no objection.

(Defendants" Exhibit A was received in evidence.)

xx MT. STITT: The record should show that this is a document consisting of two pages bearing the date of October 12, 1972 and signed on behalf of Columbia University by Joseph P. Nye, vice-president.

Mr. Nye is here. It was signed on behalf of the Transport Workers Union of America, AFL-CIO by Joseph Hanaberry, International vice-president, and on behalf of the Transport Workers of America, AFL-CIO, Local Union 241 --

---------- U.S. COURTHOUSE

I believe we can make out Mr. O'Brien's signature.

MR. DRYFOOS: Yes.

BY MR. STITT:

Q I am going to draw your attention to Paragraph 5 of Defendants' Exhibit A. Perhaps it should be Defendant University Exhibit A.

(Defendants' Exhibit A in evidence was withdrawn.)

(Defendant University Exhibit A was received in evidence.)

xx THE COURT: In that connection, I think the Plaintiffs' Walker Exhibits should probably have been named just that, after the plaintiff in this case. We have two plaintiffs here.

BY MR. STITT:

Q I am going to draw your attention to Paragraph 5 of Defendant University Exhibit A, Mrs. Dickens.

MR. STITT: It is short, and for the benefit of all of those who don't have the document I will read it:

In additon to the seven heavy cleaner position that were filled by light cleaners as of August 28, 1972, Columbia agrees to create six additional positions in the heavy cleaner class and agrees that employees presently working as maids-light cleaners shall be afforded the

pgs Dickens-cross [192]

first opportunity to bid these new positions in accordance with their University seniority.

* * * * * *

[193]

* * * * * *

Q Did you apply for any of those six additional positions?

A No.

Q I am turning now to Plaintiff Walker's Exhibit 8-L. I show you now what appears to be a notice posted under date of August 15, 1972 for janitor-heavy cleaner in the Residence Halls.

Did you see that notice, Mrs. Dickens?

A I don't remember seeing that.

Q In any event, did you apply for that position or any such positon?

A I didn't see it.

MR. STITT: I may have misspoken myself.

What appears to be a copy of that notice is marked

as Exhibit 5-F. It was 8-F for identification.

Q I am going to show you Exhibit 8-H for identification, a notice for two heavy cleaners in the Buildings and Grounds Department, under date of October 9, 1972.

Do you recall seeing that notice, Mrs. Dickens?

A I didn't notice it.

Q Do you recall applying for any such job?

A No.

Q Next I show you Exhibit 8-I for identification, which appears to be a notice dated November 10, 1972 for five heavy cleaners in Buildings and Grounds.

Do you recall seeing that notice?

A No.

Q Did you apply for any of those positions?

A I did not.

Q The last one is dated November 27, 1972, a day heavy cleaner job in the Residence Hall (Bard Hall).

Did you see that notice?

A No.

Q Did you apply for that job?

A No.

Q Referring to Plaintiffs' Exhibit 9-A for identification, a notice dated January 5, 1973 for five heavy cleaners in Buildings and Grounds, did you see that notice?

A No, I didn't.

Q You didn't see it or you don't remember seeing it?

A I don't recollect seeing it. I would never have time to look at the board.

Q Did you apply for any of those positions?

A No.

Q I show you Exhibit 9-B for identification, a notice dated January 17, 1973, for heavy cleaners in Residence Halls.

Did you apply for those positions?

A No.

Q Next, Exhibit 9-C for identification. This appears to be dated -- I cannot make out the exact day, but it would be February 8th, a notice for heavy cleaner positions in the Residence Halls, $3.45 per hour plus 15 cents night differential.

Did you apply for any of those positions?

A No.

Q How much were you being paid as a light cleaner at Butler at this time in February of 1973?

A I think it was $2.81. I'm not sure.

Q Was it about 45 cents per hour less than the heavy cleaner rate?

pgs Dickens-cross [196]

A I guess so.

Q That's your best recollection?

A Yes.

Q I have here a notice next in order -- and I will have to take the date from the bottom. This would be March 6, 1973, heavy cleaners in the Residence Halls.

Did you apply for any of those positions, Mrs. Dickens?

A No.

* * * * * *

[200]

* * * * * *

REDIRECT EXAMINATION

BY MS. LIBOW:

[204]

* * * * * *

Q Your mop, we tried to establish, and you said you didn't know, how much it weighed?

[205]

* * * * * *

Q Mr. Stitt asked you about the janitor mops, if they were bigger.

A Yes, they are.

Q You said they were heavier. Have you ever lifted one of the janitor's mops?

A Yes.

Q Could you tell us how much they weigh?

A No. I cannot tell you exactly how much they weigh. They are a little heavier.

Q Mr. Stitt questioned you about emptying out the garbage from the trash baskets. I believe you referred to them as trash baskets.

MR. STITT: I referred to them as wastepaper baskets.

The answer will speawk for itself, of course.

THE COURT: Please proceed.

Q Mr. Stitt asked you about emptying paper from the wastepaper basket. Is there anything else in those baskets other than paper?

A Yes. Food, bottles, and books, cans.

Q How much did you say they weighed?

A Some are much heavier than others. Last night I had bags weighing as much as, I know, 50 pounds apiece.

Q What was In those bags?

A Computer paper, books, bottles, and food.

Q What do you do with those?

pgs Dickens-redirect [207]

A I get them as much as I can in one bag. I had seven last night from the second floor. I take them and pull them from door to door. If they get too heavy then I take them -- I pull them down the steps.

Q Down a whole flight of steps?

A Yes, to the elevator.

Q How long a distance would you say that is?

A It is a distance from about --

Q Measure it based on the room.

A It is nine rooms, the length of nine rooms.

Q Nine rooms of this size?

A No. They are office rooms, small office rooms.

Q That is the distance to the elevator?

A That's the hallway. I have to carry them down-stairs and drag them from the steps to the elevator. The distawnce from the stair steps is about as far as from here to over there (indicating).

THE COURT: You are indicating some 40 feet.

Q Yesterday the Department of Labor asked you questions about making a bed.

A Yes.

Q I want to ask you about making a bunk bed. Is that any different from making an ordinary bed?

A Yes.

Q Can you tell us how it is different.

A It is different because there is a lower berth and a top berth, and you make the loer berth first and then you have to reach up and make the top berth.

Q Do you have to move the bed away from the wall to make it?

A Yes.

Q How much do those beds weigh? Do you know?

A I don't know. They are heavy because they are iron beds.

Q Do you think it weighs more cr less than a desk?

MR. STITT: If your Honor please --

THE COURT: I will sustain the objection.

Q Could you describe how you make one of the bunk beds.

A Put the sheet on, draw it tight, lift the mattress up, tuck it under and fold it over.

Q Do you have to crawl inside to get at the inside of the bed?

A No. I have to pull it from the wall to get on that side.

Q Other than pulling it from the wall, is it the same process you go through to make the other beds?

A Yes.

Q How do you make the top bunk?

A I just reach up and make it.

Q You lift up over your head?

A Yes.

Q Do you have a stool or a ladder to do that?

A No.

Q You said you had one vacuum cleaner when you were doing 540 and you have a different vacuum cleaner now; is that correct?

A Yes.

Q The vacuum cleaner that you had over at 540, how much did it weigh?

A I don't know exactly. I guess about 20, 25 pounds. I'm not sure. I don't know exactly.

Q It was a a household type?

A It looks like a household. It is a little bit heavier than a household.

Q Can you describe for us the vacuum cleaner you have now?

A That's a big one.

Q How much does it weigh?

A I don't know, but it is heavier than the one I had at 540.

Q How tall is it?

pgs Dickens-redirect [210]

A That tall (indicating).

THE COURT: Three and a half feet.

MR. STITT: Is that another household-type vacuum?

THE WITNESS: No. That's more or less for an office.

MR. STITT: Is it an upright vacuum cleaner?

MS. LIBOW: If Mr. Stitt would like to take over my redirect examination --

MR. STITT: I am trying to clarify it.

THE COURT: I agree with you.

I think perhaps we might save time if this was done.

Reframe it.

28 BY MS. LIBOW:

Q You said it was about three feet high. How wide would you say the vacuum is?

A (Indicating) I don't know exactly.

Q Show us on the booth where you are.

A (Indicating.)

THE COURT: About a foot and a half.

Q Does it have one handle or two?

A One.

Q Do you ever carry that vacuum cleaner upstairs

or downstairs?

A No.

Q In the course of your work do you move the furniture to clean?

A Only the chairs.

Q What kind of chairs are they?

A Some are small like this and some like the one the gentleman over there is in (indicating).

Q Do you pick them up and move them?

A I pull them.

Q Do you know approximately how much a chair like that weighs?

A No. I don't know.

Q Do you ever move tables?

A No.

Q Mr. Stitt asked you if you had ever moved desks and you said you had not. Had you ever been asked to move a desk?

A No.

Q Mr. Stitt asked you if you ever used a ladder and you said you had not. Had you ever been asked to use a ladder?

A No.

Q Have you ever been asked to use the floor machine

A No.

* * * * * * [215]

REDIRECT EXAMINATION

BY MR. BERKE:

Q I believe you testified that back in the period you worked at Residence Hall, in response to Mr. Stitt's qudstion you testified that beds were made once a week per bed; is that correct?

A Yes.

MR. STITT: If your Honor please, I believe the testimony was linen is changed once a week.

MR. BERKE: Thank you.

Q Linen is changed once aw week per bed?

A Yes.

Q At a given time how many beds did you have responsibility for changing the linen on?

A Some days I would have 14 and some I would have 15.

Q When you said "once a week per bed," were the linens for all beds changed on one day of the week?

A One day if I changed the bed, that was 14 beds changed the linen, and the next day I changed 17.

Q So although you changed the linen on one bed once a week or on each bed once a week, you did change bed linens every day, did you not?

A Every day.

* * * * * *

Q You also testified that you observed, you have observed, a man shoveling snow?

A Yes.

Q How many men have you observed shoveling snow?

A Two.

Q How many times have you observed this?

A Myself?

Q Yes.

A Four or five times. Not too much.

Q In how many years has that four or five observances been made?

A One winter. They were shoveling snow off the steps toget in.

Q How often during a day do you observe your fellow janitors working?

A I don't know exactly how often unless I pass by. I am busy myself. I see them once I come out of the room, going from one room to an other.

Q But when you see them they are only spot observations; is that correct?

A Yes.

[95]

* * * * *

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CORA P. WALKER, called as a witness by the plaintiffs, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. GOODMAN:

Q Are you a plaintiff in this case?

A Yes, I am.

Q For the record, are you a female?

A Yes.

Q Are you presently employed?

A Yes, I am.

Q By whom?

A Columbia University.

Q What job do you hold presently?

A Security guard.

Q How long have you held that position?

A Since the 1st of July, 1974.

Q When were you first employed by Columbia?

A The 20th of May, 1969.

pgs Walker-direct [96]

Q What job were you hired for in 1969?

A As a maid.

* * * * *

* * * * *

Q Did you have any training for your job as a maid?

A Three nights we was instructed what we were told to do.

Q In a classroom?

A Yes.

Q How long did that training last per night?

A Three hours.

Q Were you given a written job description at that time?

A No.

Q Who trained you?

A A Mr. Cooper. I don't know his first name or his initial.

Q Who was in that class?

A A Mrs. Gertrude Grant, a Mrs. Louise Stamp, and a Mrs. Simmons -- I don't know her first name.

Q They were the maids?

A Yes.

Q Were there any other people in the class?

A Yes. There were four or five men, but I don't know their names.

[101]

Q Do you know what jobs they held?

A Janitors, I assume.

Q Did you sit together during this instructional period?

A Yes.

* * * * *

Q Were there any times you were trained separately from the men?

A No.

* * * * *

[124]

* * * * *

Q When did you start working as a guard?

A The 1st of July, 1974.

* * * * * [128]

Q Go back to your job when you were first hired as a maid at Columbia and discuss your job duties then.

A When I was first hired at Columbia University it was May 20th, 1969. I was assigned to Mr. Blackwell. He was my supervisor.

The first building I worked in was Philosophy, and I worked there from May to the latter part of November of 1969.

Q For six months, about?

A For six months, about.

Q Can you describe the Philosophy Building?

A Yes. I did the sixth floor and the seventh floor.

Q Can you describe the sixth floor to us.

A The sixth floor, I guess, it is about 25 offices and a student lounge.

Q How large were the offices? Were they all about the same size?

A Different sizes.

Q How large were most of them?

A Well, there were some conference rooms. There was one or two or three about this size, this length.

Q This whole courtroom?

A Yes.

THE COURT: What is your measurement, Mr. Berke?

MR. BERKE: I had taken measurements and it was approximately 20 feet wide by 39 feet long.

THE COURT: Roughly 20 by 40?

MR. BERKE: Yes, your Honor.

Q As long and as wide?

A About. Yes.

Q What type of furnishings were in the lounge?

A There was three counches, two end tables, two long end tables, one round table, and 12 chairs.

Q Was there carpeting?

A Yes.

Q Did you vacuum?

A Yes.

Q What other chores did you have?

A Dusting the furniture, polishing the furniture, the windowsills and baseboard.

Q You cleaned the baseboard?

A Yes. You dust that.

Q Did you dust that with a hand dust cloth?

A Yes.

Q So you had to bend down to dust that off?

A Some.

Q When you vacuumed, did you have to move the chairs?

A Yes, in order to get under the chairs.

Q Did you ever have to move the couches?

A No, I didn't. They are too heavy.

Q On the sixth floor besides the students' lounge you say there are 25 offices?

A About 25, including the conference room.

Q What were the conference rooms? How many were

there?

Q From 1969 to 1974 I think -- I don't know the exact number. It was just about 25 rooms on the whole sixth floor.

Q What were your chores in those rooms?

A Some I vacuumed and dusted and emptied the trash; some I ran the dust mop, emptied trash, also clean the desks, clean the ashtrays, pull the garbage, and take it out to he elevator.

Q Did you have a cart?

A Yes.

Q Did you put all of your equipment on the cart?

A Yes.

Q Including the vacuum?

A No. The vacuum I take with me.

Q How did you carry the vacuum?

A Put it on the elevator, bring it up and push it.

Q And then you pushed it from room to room?

A Yes.

Q Can you tell us how large the vacuum was?

A I guess the vacuum should weigh between 20 and 25 pounds.

Q Was that empty or filled?

A Empty.

pgs Walker-direct

Q How much --

A I beg your pardon?

Q How much did the bag weigh when it was filled with waste?

A I guess five or eight pounds.

Q How often was the bag emptied?

A Every night.

Q Did you empty the bag?

A Each maid had to keep your vacuum clean. Yes, I did.

Q How did you go about emptying?

A You release it at the bottom and the top and you get a bag and you shake the dust out.

Q Where do you bring that to after you wrap it up?

A I put it back on the vacuum cleaner and then I take the vacuum cleaner to the next floor.

Q How large is the vacuum cleaner? Can you give us a size dimension?

A It is an upright.

Q How high does it come on you?

A It is about this wide (indicating), and about that long (indicating).

Q How how is it?

A Just an ordinary vacuum, a house vacuum.

Q Where I have my hands, about here (indicating)?

A Not quite that high. About like that (indicating).

THE COURT: Two and a half feet.

Q That was the sixth floor you were discussing?

A Yes.

Q You said you also worked on the seventh floor in Philosophy?

A Yes.

Q Can you describe the setup on the seventh floor? Were there classrooms, lounges?

A There was not any lunge but there was about three conference rooms on that floor, and I guess about 17 or 18 offices. In the conference room you more or less use a dust mop. You dust. You dust the chairs. You polish the tables, and you run the dust mop, baseboards whenever you get a chance, and that was in one of the conference rooms -- there was a large wooden bench made like a settee.

Q You dusted each one of those. How many chairs and benches were there?

A I guess about 25.

Q Was there a big table in the middle?

A A huge table.

Q How large would you say the table is?

pgs Walker-direct [134]

A From there around like that, maybe a little longer (indicating).

Q How many chairs could fit around it?

A About 40, if you squeeze.

Q You waxed or polished it?

A They had to be waxed and polished.

Q Every night?

A Not every night.

Q How often?

A Maybe about twice a week.

Q How large were those conference room?

A It looked like it could be the same length and width of this one. I don't know.

Q Where did you get the equipment that you used?

A From service down in the basement.

Q You brought all of it up to your work spot?

A Yes.

Q Can you tell us all of the equipment that you had?

A Your vacuum, your dustpan, your dust cloth, your polish, your liquid soap, and the toy broom.

Q Did you have a dust mop?

A A dust mop, yes.

Q And a garbage unit?

A Yes, and the bags.

Q You said you pulled garbage. Describe to us what you mean by that statement?

A Empty the trash can, dump them into the cart and put them in and go to the next one, and put in a new bag and just --

18 MR. STITT: May I have a definiton of "trash can"?

Would these be a wastepaper basket?

THE WITNESS: Yes.

Q How high was that?

A It is about 12 inches high.

Q How many of those did you have to pick up and empty every night? If you had 25 rooms on one floor with a conference room, was there a wastepaper basket at every one of those?

A At each desk.

Q Were there more desks than there were rooms?

A Yes.

THECOURT: How much lo nger? If it is a matter of five minutes I would like to finish with your direct examination.

MS. GOODMAN: It will be longer.

THE COURT: We will take a recess for fifteen minutes. We will sit until 12.30 today.

(Recess.)

BY MS. GOODMAN:

Q On the sixth floor then you emptied more than 25 wastepaper baskets?

A Yes.

Q Would you say there were more than 35?

MR. STITT: If your Honor please, I object to this form of questioning.

MS. GOODMAN: I think for efficiency and quickness we may do better to proceed this way.

THE COURT: Go ahead with this question.

Q Would you say there were more than 35?

A Between 25 an 30.

Q What types of things were in the wastepaper baskets? Only waste?

MR. STITT: If your Honor please, may we have a definition of "waste."

Q Was it only paper waste?

THE COURT: I take it you are getting to what are the contents of these?

MS. GOODMAN: In part, your Honor.

Mr. Stitt makes a major deal that we are talking about little wastepaper baskets rather than garbage, and he has interrupted me to make that point to the Court.

We would like to demonstrate it is waste and garbage together, since the defendant seems to think it is a major point.

THE WITNESS: The waste consists of coke bottles, cans -- just garbage, and food, waste food.

Q And wastepaper?

A Yes.

Q On the seventh floor, how many wastebaskets did you have?

A Twenty offices up there and three conference rooms, huge rooms, with big circular tables.

Q There were waste baskets at each one of those?

A Yes.

Q You said the waste basket was about 12 inches. 12 inches is that high (indicating)?

A It is about like this (indicating).

THE COURT: May the record show that the witness has indicated a distance of 18 inches.

Q After you emptied the wastepaper baskets in your cart, then what did you do with the waste?

A You work one side of the building, the floor, so you push the cart down. You empty your waste basket into the cart. You push it down to the other end and then it gets so full you have to push it back to the elevator, take

that off, put in a new bag and go down the other side.

Q When you say to take that off, you mean pull the basket --

A Pull the basket out of the cart and tie it and leave it by the elevator.

Q How much would it weigh at the point it is filled?

A It varies because a lot of time it has these Xerox cards and boxes and things. I guess about 35 pounds or 40.

Q But not always?

A Not always.

Q Sometimes it is lighter?

A Yes.

Q You described to us your chores at the Philosophy Building. You were then transferred to the Journalism ding?

A Yes.

Q When was that?

A That was the second week in November of 1970.

Q Was it 1969?

A 1969, that's when it was.

Q Did you hold that job until you were promoted to security guard?

A Yes.

Q How large a building was it?

A Seven floors.

Q How long was the building? Was it a block, a half a block?

A About a half a block long.

Q When you first started working in that building, how many maids were assigned to that building?

A There was four at night at two in the day.

Q How many janitors, if you iknow?

A Three.

Q In the Journalism Building what floors were you assigned to?

A Sixth flcor.

Q Just the sixth?

A Yes.

Q Can you describe that floor?

A Well, on the sixth floor they have a summer program. They have a video classroom, which is 16. This is where they take and record. Also there are desks and typewriters.

Q This is the radio and television room?

A Yes.

Q That has a number --

A A number of typewriters, and two huge tables the

length of these two, maybe longer -- about three of these tables together and about the width of this (indicating), or maybe about that width.

Q You said about three of these tables?

A Yes.

MS. GOODMAN: Let the record show that one of these tables is 48 inches.

THE WITNESS: And about the width of the Judge's stand.

MS. GOODMAN: The witness has described the table as 12 feet.

THE COURT: Yes.

Q It was the width of --

A Just about the width of that (indicating), because you could not stand on this side and dust across. You had to go across like you could do this and that (indicating). You had to go around.

Q You had to go around the table?

A Yes.

Q You could not stretch out over the table?

A Yes.

Q How many tables like that were there?

A Four in that particular area.

Q You polished the tables?

A Those had to be washed.

Q When you say "washed" --

A They had a formica top and they were white, light.

Q You washed all four tables?

A Yes.

Q What else was in that room?

A That was six cubicles. They were all small.

Q Each had a little desk in it?

A About two of these tables, the length of it, and the width of these tables, and some had four -- two on this side and two on that side.

MS. GOODMAN: Can the record reflect that each had a table of 96 inches wide.

Q You said two of these tables?

A What I mean, the long way.

Q How wide?

A About the width of that. The rooms are samll.

THE COURT: Miss Goodman, how is that going to figure on any issue here?

MS. GOODMAN: The only issue that this will bear on is not strictly Title 7, but on the equal page issue, and we are just adducing evidence as to the work of a maid being substantially similar, and we have to demonstrate what the work of a maid is.

THE COURT: Isn't it sufficient for her to say she cleaned tabletops? Do you have to get into how big the tables were and how many there were?

MS. GOODMAN: I think the number and the variety of chores and whether she was able to stand there and wipe off a little bitty desk or whether she had to walk around the table --

THE COURT: I don't see that as making any difference at all.

MS. GOODMAN: There is the amount of effort that a job requires as to the comparative standard, and it strikes me that it might be a good deal easier if I had this small lectern.

THE COURT: The authorities that were appended to the Secretary's brief got down such things as heavy vacuum cleaners, 55 to 100-pound vacuum cleaners. They got down to shoveling snow off stoops. I didn't get any impression whatsoever that there was a differentiation made between the size of the table that anyone had to dust.

MS. GOODMAN: I don't want to speak on that, but I think there is an error on that.

MR. BERKE: It is a basic tenet in the Secretary's argument that the routine duties of a maid, or a light cleaner, are equal to all of the duties of a janitor, and

we would support the Walker plaintiffs in their contention that the size of the tables cleaned, lifted, mo ved, the bending and stretching necessary therein, would be relevant, and we think it can reach a point where it is cumulative, but I think we are trying to give a picture.

Q How often?

A Twice a week. Three times if it was not too heavy.

Q Were other rooms were on that floor?

A The classroom. It has 40 chairs, 40 desk chairs, and they too had to be washed because they were light furniture, and there was two table about the mantelpiece and about the width of that one (indicating).

MS. GOODMAN: Can the record show that that is about 98 inches.

THE COURT: It may.

A (Continuing) The carpeting which I had to vacuum.

Q Did you have to move the 40 chairs?

A Yes. You could not get through. You had to move them in order to vacuum.

Q How heavy were the chairs? Were they wooden chairs?

A No. They were like --

Q Aluminum?

A Aluminum and -- I don't know what it was. It was aluminum and some sort of treated --

Q Vinyl?

A Yes.

Q Did you wash off the chairs?

A Yes. They had to be washed.

Q Were there any other rooms on that floor that you were responsible for?

A There was a dark room where they developed pictures and I had to wash that table which was in there which was white formica, and I used to dust mop on that. I had to wash off the machine where the fluid is, and there was a file cabinet and two chairs and a desk.

Next to that was the news room. I guess it was more or less a classroom. It had about 40 desks. Some had to be polished and the others, some had to be washed. They were formica top also, and I used a dust mop in that area.

Q When you came into the news room what did that look like?

A There were waste baskets to be emptied and trash over the floor. It was just like a classroom, more or less. Ash trays and pop bottles.

Q Was there ticker tape there too?

A No.

Q Were there any other rooms on that floor?

A Yes. The receptionist area or part. As you go into 601 there is an office to your left that has carpeting in it and it has a large table and a couch and a book shelf. I guess there are four or five chairs and a file cabinet. I had to vacuum that. The receptionist part I used a dust mop. There was a large seat, two desks, and about four chairs, a Xerox machine, and those had to be dusted and polished at various times.

Q You said you did not have a cart?

A No.

Q Can you describe for us how you carried from room to room all your equipment and what equipment you were carrying?

A Yes. Most of the time I would take two shopping bags and put a small plastic bag in it, and I would put my polish in the bag, my dust cloth in the bag, my liquid soap which would be in a bottle, a plastic bottle or something, and my dustpan and my toy broom for the corners. I would take those to the area where I am going to work, and then I would go back and get my vacuum and my dust mop.

Q From room to room you made two trips?

A Yes.

There is also five more offices in 610. They have to be vacuumed, and in each office there was a desk and four chairs and the bookshelves in some, a refrigerator in two, bookshelves in all of them, about four chairs to each offfice. Each one had to be vacuumed.

Q Each time you vacuumed you would have to move the chairs?

A Yes.

Q Did you just wash off the refrigerator or did you have any other responsibilities?

A That was not part -- I don't think that was part - I always dusted off. I was not to clean the refrigerators.

Q Did you have any other chores?

A Yes. Whatever -- As I said before, there was four maids at night and two in the daytime, so whenever one of the maids, any one of the maids, were out on vacation we used to get a couple of hours overtime, get paid for it, but then one retired and the next thing I heard, that would be part of our assignment, which was the first floor, Journalism. That's what I was doing when I was transferred to the security guard.

Q You said there were two day maids?

A Yes.

Q Did both of them retire?

A Yes.

Q When was that?

A 1973, I think. About the first of 1973 and the latter part of 1972.

Q You said you had to do their work.

A Five offices that had to be dusted and vacuumed, empty ash trays, dust windowsills.

Q Was it only five offices that you had to clean?

A Yes.

Q Five more offices?

A Yes. Then they had another lady from some place to come in and do the conference room and the UPI.

Q Have you ever had occasion to use one of the buffing machines?

A I have tried it. Nobody told me to, but I tried it.

Q Did you find it difficult?

MR. STITT: I object to the form of that question.

THE COURT: Sustained.

Q Were you trained on how to use it?

A No.

Q Were you able to work the machine?

MR. STITT: I object to the question.

pgs Walker-direct [148]

MS. GOODMAN: I don't understand the objection.

THE COURT: I sustain that.

Q What did you do with the machine.

A I just buffed a small area in the lobby.

* * * * *

[224]

CROSS EXAMINATION

BY MR. STITT:

Q Mrs. Walker, on your direct examination you were asked about the classroom training that you and some other women had together with some men. During that training period were you given any instruction in the use of floor machines?

A No.

Q During your direct examination you were asked about layoff notices, I believe, in January, and perhaps also in August, 1972.

Were you ever, in fact, laid off?

A No.

* * * * *

* * * * *

Q Is it true that in November of 1969 you were a light cleaner maid and had just been transferred to the Journalism Building?

A That's correct.

Q Is it true that your duties at Journalism consisted of, first of all, dust mopping?

A Yes.

Q Dusting?

A Yes.

Q Vacuuming?

A Yes.

Q Spot cleaning the walls?

A Yes.

Q Polishing desks?

A Yes.

Q Emptying ash trays?

A Yes.

Q Is it true that you would empty these ash trays into a small plastic bag?

A Yes.

Q Is it true that this bag would be tied to your waist?

A Yes.

Q Is it true that by spotting the walls you mean to remove with a sponge, a cloth, spots?

A Yes.

Q Is it true that you just removed those spots with a sponge or cloth as high as you could reach?

A That's correct.

Q You are not required and do not use a ladder?

A No.

Q You are not required and do not use a platform?

A No.

Q You are not required and do not work on scaffolds?

A No.

Q You testified, I believe, that prior to November, 1969, in Philosophy you emptied wastepaper baskets?

A That's correct.

pgs Walker-cross [229]

Q Is it a fact that you do not empty waste baskets in Journalism?

A That's correct.

Q As a matter of fact, you have never emptied a wastepaper basket in Journalism; isn't that so?

A Well, sometimes the supervisor would ask to help out if the janitor was not there.

Q Did you testify before the State Division of Human Rights on two different dates in 1972, June 12 and also on July 19th, 1972?

A Yes.

Q At page 198 on direct examination were you asked this question and did you give this answer?

"Q Have you ever emptied a waste basket in the Journalism Building?

"A No, not in the Journalism Building."

Were you asked that question and did you give that answer?

A Yes. I remember.

Q Isn't it true that the janitors emptied the waste baskets in Journalism?

* * * * *

A Janitors empty waste baskets.

* * * * * [232]

Q Isn't it true, Mrs. Walker, that in Journalism the waste baskets often contain heavy material?

A I don't know.

Q I ask you whether at page 181 you were asked these questions and whether you gave these answers? I will be repeating a question and answer that I read earlier so that we will get the full thread:

"Q I didn't hear you testify as to whether or not you emptied waste baskets. I ask you, is it not true in the Journalism Building the janitors empty the waste baskets?

"A That's correct.

"Q Is that not true because the Journalism Building or school waste baskets often contain heavy magazines, books, and heavy waste material of that sort?

"A Well, usually it contains a lot of heavy material but not in all waste baskets.

"Q In any event, it is the janitors who do that job in Journalism and not the maids?

"A That's right."

Were you asked those questions and did you give those answers?

A I don't remember.

May I see it?

Q Let me place before you, Mrs. Walker, your testimony at page 181. I show you the transcript. I direct your attention to the top of the page, line 2, coming down through line 15, to there (indicating).

A (Pause.)

MR. BERKE: Your Honor, I'll have to object to this in so far as it is being offered to prove that the reason the janitors left --

THE COURT: Mr. Berke, before you get into argument, she earlier said she didn't know whether it contained heavy material. He is showing her alleged testimony in which she says she did know. That, I assume, is the basic point, and for that it is legitimate.

Q Were you asked those questions? Did you give those answers?

A Yes. I was asked those questions and I gave those answers.

Q Isn't it a fact that also you moved no desks and no large tables at Journalism?

A I did not move any large tables or desks.

Q You only moved the chairs; is that correct?

A Chairs, and would have to shift the waste can.

Q As far as furniture was concerned, only the

chairs?

A Maybe a machine or something that was on wheels would have to be shifted.

Q To supplement your testimony, page 142, were you asked this question and did you give this answer?

"Q Do you move the furniture around the room where you work?

"A Only the chairs."

Were you asked that question and did you give that answer?

A That's correct.

Q I want to ask you a few questions about your equipm ent at Journalism. Those consisted of rags?

A Yes.

Q Sponges?

A Yes.

Q A vacuum cleaner?

A Yes.

Q A dust mop?

A Yes.

Q A toy broom?

A That's correct.

Q Is that sort of like a whisk broom with a handle on it?

A A child's broom that you get in the corners with

Q A dustpan?

A Yes.

Q You testified about the plastic bag which you tied to your waist in which you emptied the ash tray contents?

A That's right.

Q How much does your dust mop weigh?

A It is a 24-inch mop. I don't know how much it weighs.

Q What is the approximate weight?

A Maybe three or four pounds with oil in it when it is clean. When it gets dirty about five pounds, I guess.

Q Doesn't that weigh two pounds, Mrs. Walker?

A When it is dirty?

Q When it is just regular.

A I don't remember.

Q Page 182, your testimony before the State Division. I will eliminate the colloquy. Were you asked these questions and did you give these answers?

"Q Is this dust mop approximately 24 inches?

"A That's correct.

"Q Does it weigh approximately one and three-quarter pounds?

"A I guess about two.

"Q Does this weigh approximately two pounds, Mrs. Walker, to your best estimate?

"A Yes."

Were you asked those questions and did you give those answers?

A Yes.

Q You mentioned a vacuum cleaner. Is this an upright vacuum cleaner that you use?

A Yes.

Q Would it be fair to to describe this as a household-type vacuum cleaner?

A It is just an ordinary vacuum cleaner.

Q Could you tell us approximately how much that vacuum cleaner weighs or weighed?

A I guess between 20 and 30 pounds.

Q At page 183 of your testimony before the State Division of Human Rights were you asked these questions and did you give these answers?

"Q You have already testified that your vacuum cleaner weighs about 10 to 15 pounds, perhaps 17 pounds?

"A Maybe 20.

"Q Somewhere in that range, 15 to 20 pounds?

"A Yes."

Were you asked those questions and did you give those answers?

A Yes.

Q Are you familiar with the type of vacuum cleaners used by janitors or heavy cleaners in Journalism?

A Well, to the best of my knowledge the janitors use the same as we use.

Q Isn't it a fact that the janitors at Journalism use vacuum cleaners which were much heavier than the one you used at Journalism?

A I have seen such vacuums around but I don't remember ever seening the janitor use it.

Q To supplement your testimony, I am going to ask whether before the State Division of Human Rights, at page 183 to page 184 you were asked these questions and whether you gave these answers?

"Q Are you familiar with the vacuum cleaners used by the janitors in Journalism?

"A Yes.

"Q How do they compare with the vacuum cleaner that you use?

"A Well, the vacuum cleaner that I use weighs between 15 and 20 pounds. The vacuum cleaner that

the janitor uses has a huge barrel on it and wheels that you can bring it around.

"HEARING EXAMINER: I can't hear.

"A (Continuing) The vacuum cleaner that the janitor uses has a huge barrel where the dust goes in. It has three wheels on it that you drag around.

"Q Does this contain water?

"A No.

"Q Do they use wet and also dry vacuum cleaners?

"A Well, that is what they used, that huge vacuum for just the lobby, the rug and the lobby.

"Q Isn't it true that the vacuum cleaners the janitors use are much heavier than yours?

"A Yes.

Were you asked those questions and did you give those answers?

A I guesss so, yes.

31 Q Your answer is affirmative?

A Yes.

Q Are you familiar with the floor machines used by the janitors?

A No.

Q I am referring to the machines that janitors us

for polishing floors and stripping and shampooing carpets and waxing.

A No. As I stated before, I used it but no one asked me to use it. I tried it.

Q To supplement your testimony, at page 134 before the State Division of Human Rights, were you asked these questions and did yougive these answers?

"Q In addition to that, do the janitors at Journalism use floor polishing machines which can be used also for stripping and shampooing carpets?

"A They usually put the wax down with a mop.

"Q You have seen them use machines for buffing wax?

"A Yes."

Were you asked those questions? Did you give those answers?

A Yes.

Q Isn't it true that these machines are also used for stripping floors?

A I think so.

Q Is that your best recollection?

A Yes.

Q Can you describe these machines for us, Mrs. Walker?

A I never paid that much attention to that.

Q Do they have a circular drum at the floor level?

A The best description I can give, it has a steel wheel on the bottom and it goes round and round when they turn it on.

Q Can you tell us how much those machines weigh, approximately?

A Approximately 50 pounds, I guess.

Q 50?

A About that much.

Q Perhaps more?

A I don't know.

Q Did you ever try to pick one up?

A I never tried to pick it up, but I did try to run one.

Q Were you able to operate that machine?

A A little, yes.

Q Actually you need to have some training before you could use that machine for stripping?

A That's right.

Q You never had that training, did you?

A No.

Q Are you familiar with the mopping equipment used by janitors when janitors when you were over there at

Journalism?

A I have seen them mop.

Q That consists of a couple of pails and a cart and a solution?

A Yes.

Q And a wringer?

A Yes.

Q And a dolly?

A Yes.

Q Have you seen the janitors wet mop over at Journalism?

A Yes, because they would be on my hall.

Q You have seen them wet mop the corridor along your hall?

A Yes.

Q Have you seen them wet mop anywhere else in Journalism?

A The lobby some time.

Q Anywhere else?

A In some classrooms.

Q What about elevators?

A That they just wet mop.

Q You seen them wet mop in the elevators?

A Yes.

Q When you say that's just wet mopping, how do you differentiate? What were you referring to earlier?

A They didn't use the machine on the elevator. They only used the wet mop.

Q They also used the wet mop in the public lavatories at Journalism?

A I assume they did, but I was busy doing my work.

Q That's your best recollection, that they did do that?

A Yes.

Q Are you familiar with the hand truck which the janitors used at Journalism?

A I have seen them.

Q How much do they weigh about? Can you give us an estimate?

A I really don't know.

Q Well, at page 185 of your testimony before the State Division of Human Rights, were you asked these questions and did you give these answers? I will read an earlier question to pick the thread up:

"Q Are you familiar with the mop trucks that the janitors use?

"A No.

"Q Or the hand trucks?

"A Yes.

"Q Do they weigh about 60 pounds?

"A Something like that, perhaps."

Were you asked those questions and did you give those answers?

A Perhaps I did.

Q What is it?

A I guess I did.

Q Is that an affirmative answer?

A Yes.

Q You did give those answers to those questions?

A Yes.

Q Are you also familiar with the platform trucks that janitors use in Journalism?

A Platform trucks?

Q Platform trucks.

A May I ask a question?

What are they used for?

Q To just help you along.

Were you asked this question and did you give this answer at page 185 before the State Division of Human Rights?

"Q Do they have platform trucks, referring to the janitors, in Journalism?

"A Yes."

Did you give that answer to that question?

Q Could you describe these platform trucks for us, Mrs. Walker?

A There was only one that I know of and that was the one that the janitor went from room to room to pick up the wastepaper, and it has a canvas bag on it and a round rim that the canvas bag fits down in, and then he puts the other bags into the canvas bag on a little platform and it has four wheels.

Q How do those trucks compare with the hand trucks I just asked you about?

A That's it. That's the hand truck.

Q Do the janitors use trash trucks at Journalism?

A To carry out the trash.

Q Are you familiar with these trash trucks?

A I guess I am.

Q That's your best recollection?

A Yes.

Q Have you seen the trash trucks at Journalism?

A Yes.

Q Is this a huge truck?

A Yes.

Q Is this the one that is loaded up each morning

and pushed out into the street?

A Yes.

Q It is the janitors who do that pushing?

A Yes.

Q You are not required to push those trucks, are you?

A No.

Q Hand trucks, platform trucks, trash trucks?

A No.

Q Do you believe you could push those trucks without help?

MR. BURKE: Objection, your Honor. It is pure opinion. It is absolutely irrelevant to the action.

MS. LIBOW: Has it been established that the janitors do it without help?

THE WITNESS: What was the question?

MS. GOODMAN: Don't answer it yet.

THE COURT: Have you ever tried to push the truck?

THE WITNESS: No.

May I add that the janitors don't push the truck alone. They have help.

Q You have to have help?

MR. BURKE: I object to that.

pgs Walker-cross [246]

MR. STITT: I believe the question has been answered.

THE COURT: I believe the question has been answered too.

Q You are not required to use the stripping machines, are you?

A No.

Q The janitors use the stripping machines?

A Yes.

Q Are you familiar with 55-gallon drums containing cleaning material, cleaning solvents?

A I have seen them in the stockroom.

Q Do the janitors deal with these drums of cleaning material?

MR. BERKE: i object to that.

The question was: "Are you familiar with the drums?" and she said, "I have seen them in the stockroom."

The question should be: Have you seen them moved by the janitor?

(Record read.)

THE COURT: Rephrase the question.

Q Do janitors use 50-gallon drums of cleaning material in Journalism?

MR. BERKE: I object to that.

THE COURT: She has observed it or she has not. You may answer.

A The janitors and not janitor. I have seen at least two or three handle it.

Q Could you describe these drums for me, Mrs. Walker, that you have seen?

A They are 55 gallons. That's this tall and thi. round (indicating).

Q Four feet high?

A I guess you would say that.

Q And a foot or more across?

A Maybe three feet.

Q You are not required to use these drums at Journalism, were you?

A No.

Q You did not use them, did you?

A No.

Q I believe you testified on direct examination that you had worked previously before coming to Columbia as a maid?

A That's correct.

Q You were asked this question over my objection, but you were asked it and gave this answer before the

State Division of Human Rights, page 137:

"Q Why did you not apply for the position of janitor?

"THE WITNESS: Because I never worked as a janitor, that type of work. I worked as a maid."

I ask you, when you gave that answer to that question on June 12, 1972 what distinction were you drawing between the two jobs, maid and janitor?

A I always assumed that a janitor's job was male work and it didn't say female janitor, or janitress.

Q What did you mean by that phrase "that type of work"?

A Janitor.

Q You mean to work with machines?

MISS RODENHAUSEN: The Secretary wants to object to the question with respect to the witness' opinion about the content of the job.

The Court is asked to make its own conclusion about the quality of the job content.

I overrule the objection on the ground that the question was addressed to what she meant when she gave a particular answer, what she meant by the particular language in an answer.

MS. GOODMAN: I believe she has already answered

the question.

MR. STITT: I am pursuaing that answer.

THE COURT: Overruled.

MR. STITT: Repeat the question.

(Record read.)

A I guess so.

32 THE COURT: So I can appreciate this line of inquiry more, would you read to me again the answer that was given.

MR. STITT: The answer is:

"Because I never worked as a janitor, that type of work. I worked as a maid."

BY MR. STITT:

Q Were you also referring to the pushing, pulling and the lifting that janitors do?

A Well, yes.

Q Mrs. Walker, did you ever apply for a janitor's job at Columbia after your testimony on June 12th and July 19th, 1972 before the State Division of Human Rights?

A I think I did.

Q When was that?

A It was right after the second letter I received in the mail, which was in August.

Q Did you commence training in August of 1972?

pgs Walker-cross [250]

A No, I did not accept it.

Q You did not accept the position offered to you?

A It was offered to me, yes.

Q Did you ever sign up again for a heavy cleaner's job or janitor's job at Columbia?

A No, I didn't.

Q These notices are posted, are they not?

A Yes.

Q For janitors' job?

A Yes.

Q As well as guard jobs, which you have testified to?

A Yes.

* * * *

[425]

Q You testified you have used the stripping machine or scrubbing machine; is that true?

A Yes.

Q You were not asked to use it?

A No.

Q Have you ever asked to be trained on that machine?

A No.

* * * *

[427]

Q Have you ever observed janitors working on a ladder?

A Yes, I have, putting in lights in the classroom.

Q Do you see this most every night or about how often have you observed it?

A Not every night. I only seen him do it once.

Q How many times have you observed?

A Once that I saw him. He happened to be in the area where I was working that night.

Q Have you ever seen a janitor on a scaffold?

A No, I have not.

Q You testified on cross-examination about the mopping equipment. Can you describe the mopping equipment.

A The dust mop?

Q I'm sorry. The wet mopping equipment.

MR. STITT: Heavy cleaners or light cleaners?

MS. GOODMAN: The wet mops that heavy cleaners use.

Are you conceding light cleaners use wet mops?

MR. STITT: There is testimony by Mrs. Dickens that she used a 16 or 17-ounce wet mop for a small bathroom or two. That's her testimony.

Q The janitor's wet mop, the equipment, have you observed that?

pgs Walker-redirect [429]

A Yes. I know this. In the corridor.

Q Can you describe it?

A It is two pails on an iron cart. Each pail should hold about five to eight gallons of water, and I guess the mop should weigh about 18 pounds wet.

Q How do you know that?

A 16 or 18. It is about that wide and that thick.

Q On wheels?

A The pails?

Q Yes.

A Yes.

Q And is the mop and the pail together on wheels?

A As a rule they usually stick the mop in the pail and they push the pail with the mop.

* * * * * [433]

REDIRECT EXAMINATION

BY MISS RODENHAUSEN:

Q - You testified that you saw men wet mopping the corridors in the hallways and the elevators when you worked in the Journalism Building?

A That's correct.

Q Do you know how many men worked in the Journalism Building in the shift you were on?

A There were three.

Q Did you see all three men in the corridors, in the hallway, in the elevators, doing their cleaning tours?

A At various times but not at the same time.

Q You testified that janitors pushed trash trucks, hand trucks, platform trucks, into the street and you saw them from your work in the Journalism Building; is that correct?

A That's correct.

Q Do you recall how many janitors you saw pushing trash trucks, hand trucks, and platform trucks from your area of work in the Journalism Building?

A The three janitors, and sometimes a fourth one from across Broadway.

Q Do you recall how often you would observe janitors pushing the trash trucks, hand trucks, and platform trucks into the street during the course of your shift when you worked in the Journalism Building?

A I would not see them pushing it every night, but that's nightly that the trash would have to be pushed out and the three would do it together.

* * * * *

pgs [264]

JOYCE FORBES, called as a witness by the plaintiffs, being first duly sworn, testified as follows;

DIRECT EXAMINATION

BY MS. GOODMAN:

* * * *

[265]

Q Are you presently employed?

A Yes.

Q By whom?

A Columbia University.

Q Where?

A Security guard.

* * * *

[266]

Q How long have you been employed as a security guard?

A 23rd of March, 1972.

Q Were you employed by Columbia prior to that?

A Yes.

Q In what position?

A Cleaning maid.

Q When were you first employed as a cleaning woman?

A The 11th of August, 1970?

* * * *

[294]

CROSS EXAMINATION

BY MR. STITT:

[298]

* * * * * *

Q Are you familiar with the floor machines that janitors use for stripping and shampooing carpets and waxing and buffing?

A I see them using these big things. I have no occasion to use them.

Q Did you receive any training in the use of those machines?

A No. I had no occasion to use them.

* * * * * *

[300]

Q Mrs. Forbes, what building were you working in as a maid at the University, or as a light cleaner?

A Butler.

Q What part of Butler were you assigned to?

MS. GOODMAN: Objection, your Honor. I don't think any of this material was gone into on direct examination. I don't believe it is appropriate at this point on cross-examination.

THE COURT: I will allow it. Let's seew where it is going.

Overruled.

Q What part of Butler were you assigned to? Do you recall?

A The stacks.

Q The stacks in the library?

A Yes.

[300]

Q Did you dust in that stacks?

A Yes.

Q Did you polish furniture in those stacks?

A Yes.

Q Did you vacuum carpets?

pgs Forbes-cross [301]

A Not in the stacks, but I did vacuum.

Q Were you also assigned to rooms as well as the stocks?

A Yes, but not that many.

Q Just a few rooms?

A Yes.

Q So your area would be the stacks and a few rooms?

A Yes.

Q In those stacks and in those rooms did you spot the walls?

A Yes.

Q Just as high as you could reach?

MR. BERKE: I will object to that on the ground that it is leading.

* * * * * *

THE COURT: I sustain the objection.

* * * * * *

A Mr. Stitt, I don't know what you call "spotting walls" is the same thing I do, but we are given a sponge and some solution, and you squeeze it and you put it on the wall and you wipe it. I don't know if you call that spotting.

Q You would remove spots from the wall?

A Yes.

Q Would you do that as high as you could reach?

A Sure.

Q Were you required to work on any ladders or platforms?

A No.

Q Did you also empty waste baskets in these offices?

A Yes.

Q Ash trays?

A Yes.

Q Have you described for me all the duties you performed as a maid at Butler?

A Dust mopping.

Q Anything else?

A Spotting of walls, dusting, polishing furniture, chairs and desks, cleaning bathrooms because the stacks consist of two bathrooms, a male and a female bathroom.

Q These are two small bathrooms in the stacks?

A Yes.

MS. GOODMAN: Objection to the characterization, your Honor.

MR. STITT: I will pursue it a different way.

Q How many bowls were in each one of these bathrooms?

A One face and one commode.

Q Did you do those two bathrooms or commodes each night?

A Yes.

Q How long did it take you?

A If you are doing the job properly it will take you a little time.

Q 15 or 20 minutes perhaps?

A Maybe. After finishing doing the basin and the bowl I have to do the floors.

Q Have you described for us all of your duties as a light cleaner at Butler? Is there anything else you did?

A When I wash the bathroom I wax it.

Q What do you use to wax it?

A When the men are doing the waxing, scrubbing and waxing, I borrow their broom. I do the bathroom.

Q You borrow some wax --

A The bathroom is small. When they are doing it I say, "Lend me a waxing broom," and I go to the bathroom.

Q You put it on with a cloth?

A Just the mop.

Q What sort of equipment did you have at Butler?

A I had a barrel on three or four wheels, a dust

mop, a little hand broom, a dustpan, plastic bags, and a different type of solution for spotting walls.

Q Was this hung on to your barrel on wheels?

A Yes.

Q Any other equipment?

A And I had a broom.

39 MR. BERKE: I will object.

THE COURT: Overruled.

A I had a broom to do some sweeping because there are places where the dust mop could not fit in corners.

Q Is this called a toy broom?

A There are two brooms. It is about this length with a brush that my hands cannot reach. Some time I wrap the dust cloth around it.

Q How long is this broom that you have described for us?

A About the length of my arm (indicating).

Q Two and a half feet perhaps?

A Maybe.

Q Any other equipment you used?

A A longer broom, the one you push, but not the type that the men use because they use a very long one.

Q Yours is shorter than the one they use?

A Yes.

Q By "men" you are referring to janitors?

A Yes.

Q Any other equipment?

MR. BERKE: I would object to the phrase "any other" because I do not think it is specific enough. It is an open-ended question. If the witness were not able to think of it it would presume she used no other. I think you have to use a point in time or a specific job.

THE COURT: Overruled.

A I would not remember. If there is any other thing it might be very small. I would not remember anything else.

I said vacuum, did I?

Q Yes. Your vacuum. Describe the vacuum for us, please.

A I th ink it is larger than the regular household vacuum. I would not specify it. Some household vacuums are larger.

Q Is this an upright vacuum?

A At first I used the piggyback one, a big drum and I yelled about it. I went to the superintendent and she said I am to borrow one from the other maids. When I go there they are always using the others and generally they say they are responsible and if anything should happen

when I take it -- they would not give it to me, and I saw one of the night supervisors, the head supervisor -- I would not swear -- and I spoke with him and he said okay, that he would see that I get a vacuum, and maybe a week after he sent me a good vacuum.

Q Your supervisor told you to use the smaller vacuum?

A She told me to borrow one because the piggyback thing was not working good.

Q Do you remember her name?

A I don't remember her name.

Q Let me ask you these questions as to what you did not do.

You did not use any floor machines?

A No.

Q I take it you did not use any hand platform or trash trucks?

A Excuse me. You say I never use a floor machine? I don't know if you're including a vacuum. That is the floor machine.

Q The machines janitors use for stripping.

A I never use that.

Q You are familiar with 50-gallong drums of cleaning solvents?

pgs Forbes-cross [308]

A I seen them but I never touch it.

* * * * * *

[314]

REDIRECT EXAMINATION

XX BY MR. BERKE:

Q Mrs. Forbes, when exactly were you employed by the University as a maid? For what period?

A August 11, 1970.

Q Until when?

A Some time in 1972 when I was transferred to guard.

Q You mentioned that you used a piggyback vacuum cleaner for a period of time; is that right?

A Yes.

Q You mentioned that you made a complaint to your

supervisor and that the piggyback vacuum cleaner was replaced by another?

MR. STITT: I object to the form of the question.

THE COURT: Sustained.

Q Did you make a complaint to your supervisor regarding the piggback?

A Yes. I told her I could not carry it around. It was hard. She told me to borrow one from the other girl.

40 Q What was the basis of the complaint about the vacuum?

A She said to borrow one from the other girls. When I checked with them one was using it and the other was using it and I said okay.

Q Is it true you complained about the vacuum because it was not working well?

A It would not pick up. It was not working well and I had to carry it around.

Q You didn't complain about it because it was too heavy to use?

A I would not say it was that heavy but it was not convenient for me. It was not one you carry on your back; it was one of those old-time things: you have to hold it in one hand and push the thing along, and it was not convenient.

It really was not heavy.

THE COURT: You say it was not heavy but it was not convenient?

THE WITNESS: It was not heavy but for me to be holding this big thing and pushing this way it was inconvenient for me.

Q Have you ever observed a janitor using this piggyback vacuum?

A They nevery use it.

Q You also testified that you cleaned bathrooms. Did you do that every day?

A I don't wash and wax the floor every day, but I wash the commode and basin every day.

Q Did you report what you had done at the end of every day to your supervisor?

A No. That was what I was supposed to do. I don't think it was necessary to report what I accomplished every day.

Q Mrs. Forbes, I think you also testified that you had some duties regarding trash; is that correct?

A Yes.

Q Can you tell us exactly what you did with the trash?

A Emptied the garbage -- emptied the garbage from

the basket.

Q Must you pull the trash?

A The areas I was assigned to, I have a barrel and big plastic bag, and I set them down and use an elastic band to hold them on, and I push around to this desk and pick the garbage tin up and keep several small bags. I pick them up and dump it in here and replace it with another.

Q When the large plastic is filled what do you do?

A I pull it out and put an elastic around it and get it in one area until I finish with all the trash and I pull them to the elevator.

Q You pull the plastic bag to the elevator?

A Yes.

Q How long a distance is that?

A Well, on the third floor that's a big area in which I work, and there is a circle. That's called the circulation desk. There are many trash cans there and after gathering them there I go to the stops. The six stops begin there. From there I go down with my barrel.

Q What I am trying to understand is how long a distance do you pull the plastic bags of trash?

A From here to the ladies' room (indicating).

THE COURT: 30 feet.

* * * * * [319]

S A R A H M O S S , called as a witness by the Plaintiffs, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. GOODMAN:

Q Mrs. Moss, are you a plaintiff in this action, a complainant?

A Yes, I am

Q Are you female?

A Yes.

Q Are you presently employed?

A Yes.

Q Were you employed or by whom?

A Columbia University, Buildings and Grounds.

Q What is your job?

A Light cleaner.

Q When were you first hired by Columbia University?

A October 15, 1969.

Q At that time what job were you hired for?

A What I was hired for? As a maid.

Q And the position of maid and light cleaner, is that the same position?

A Yes.

* * * * * [323]

Q What happened that first night?

A Well, they took me over to Uris.

Q Uris Hall?

A Yes.

Q That was one of the Columbia buildings? [323]

A Yes. They were short of maids because of vacation. Mr. Jackson told me how to make the solution for the fingerprints, showed us a dust mop, and there was two of us. He put us on the third floor and told us what to do.

Q Who was the other person?

pgs Moss-direct [324]

A He gave me the keys. I didn't know nothing how to open doors or where to go, so I just automatically -- my own housework, like I do that, so I went in and I was using too much water.

Q You said somebody was with you?

A The same friend that applied with me for the job.

Q She had just been hired?

A Yes.

Q The first night the two of you worked together?

A Yes.

Q Did your supervisor come around with you during the evening or it was just you and your friend?

A I saw him stand in the doorway and look and go back, and then when I was using too much water, you know, it was dripping on the floor, so he said, "There is too much water," and he went away.

Q Did there come a time in January, January 14, 1974, that you were notified that you would be terminated?

A I was.

Q At the time you received notice of your termin-

ation, did you see a notice posted anywhere in the University for a janitor's job?

A No.

Q At the time --

A Oh, yes. I went to personnel.

Q Did you see a notice posted?

A Yes.

Q What did you do?

A I went to Personnel and I asked for an application for janitor, and she said she didn't have any.

THE COURT: She didn't have any application or she didn't have any job?

THE WITNESS: Application. She acted as if she was puzzled.

THE COURT: Proceed.

Q Did you ask for an application?

A I did.

Q Did you ask to be allowed to leave an application with her?

A I did.

Q She said what?

A To come back.

Q Did she state any reason why she could not give you an application?

A No, she did not.

Q Some time after that event did you file charges before the State Division of Human Rights?

A I did.

Q Did you go to a meeting?

MR. STITT: May we fix the date, please, your Honor?

THE COURT: Yes.

Q About mid-January did you file charges with the State Division?

A I did.

Q On January 27, 19&2, did you go to a meeting at the State Division of Human Rights?

A I did.

Q At that meeting did you mention anything about the janitor's job?

A I did.

Q Tell us what happened?

A I didn't get the question.

Q You made a statement about the janitor's job at the meeting.

A I explained I went to Personnel for an application and she told me to come back.

THE COURT: What is this coming back?

MS. GOODMAN: The receptionist told her to come back.

THE COURT: She didn't have an application and told you to come back?

THE WITNESS: Right.

Q Did she tell you when to come back?

A No.

Q Did you relate this story at the meeting?

A I did.

Q Was Mr. Nye at that meeting?

A Yes, he was.

Q Were other officials that you recognized from Columbia at that meeting?

A Yes.

Q Did anybody after you made that statement con tact you?

A Mr. Acroff.

Q Who is he?

A I imagine he is over us.

Q When Mr. Acroff contacted you what did he say?

A He told me to report 8.30 in the morning. He had two letters for me. He said he would send the letters but he was not sure of my address. He would send it registered. He asked me to sign for it.

pgs Moss-direct [329]

I asked him to let me read it before I signed. It was about to go to Personnel and see -- I can't remember her name.

Q Was it Mrs. Bardax?

A Yes, but it was not under Buildings and Grounds. It was under Residence Hall, and the job was for the day shift, and I can't work days.

Q He told you to see Mrs. Bardax

A Yes.

Q What did the letter say?

A That there was a job open at Residence Hall.

Q Did you sign that letter?

A I signed for the letter.

Q Did they give you a copy of that letter?

A Yes. He kept a copy and I had a copy. I left his office and I went to the employment office.

Q That's when you saw --

A Yes.

Q Tell us about that opening.

A She explained she had an opening at the Residence Hall and it was day shift, 7.30, I think, to 3.30. I told Mrs. Bardax I can't work days. That's why I refused it.

Q This was an opening for a janitor's job?

A As to janitor.

pgs Moss-direct [330]

Q Did you refuse it at that time?

A I did.

Q Did you tell her why?

A I did.

Q And the reason was --

A Because I had to be home in the day with my children.

* * * * * * [331]

Q Did there come a time about August 14, 1972, when you were again notified that you would be terminated?

A For janitor's job --

Q Were you told you would be terminated?

A Yes.

Q Then what happened? Did you apply for another job at that time?

A Yes, did.

Q How did that come about?

A They had posters at the clock. I didn't go to Personnel then. I went to Mr. Acroff.

Q What happened?

A I was accepted as a janitor, janitress.

Q Janitress?

THE COURT: Let's not suggest anything.

MS. GOODMAN: I think that's what she answered.

THE COURT: Is this a characterization or something somebody said?

Strike the answer and let's go at the subject again.

Please do not lead.

Q Did you have an interview with Mr. Acroff?

A Excuse me?

Q When you signed up for the job as janitor, did you have an interview with Mr. Acroff?

A I did.

Q Can you tell me what happened at that interview? Tell me what was said. Tell me what Mr. Acroff said to you.

A He told me the duties of a janitor; explained, you know, that I had to use heavy machinery and climb six-foot ladders and empty garbage, wash Venetian blinds, and damp mop floors.

Q Did he give you a written job description?

MR. STITT: Had the witness finished her answer?

THE COURT: Were you going to add something to your answer?

THE WITNESS: Clean bathrooms.

Q Did he give you a written job description?

A Not at the time.

Q At a later time, did you receive a written job description?

A When I was in training.

Q How long did this interview take place, approximately?

A I think I was with him about 45 minutes.

Q Did he ask you anything else during that? Did he ask you any questions about your background?

A No, he did not.

Q Was anything else said at that time?

A You mean in line of duty?

Q In line of duty or anything else about your responsibilities, what was expected of you?

A It was expected of me to lock up the buildings, open the buildings.

Q Did he ask you whether you would accept the job?

A Was I able to do the job; I told him yes.

Q Were you then hired as a janitor?

A I was put in training as a janitor.

Q How long were you placed in training?

A Six weeks.

Q How many other people were training with you?

A Six. Seven with myself.

Q Who are these people?

A Rachel Boler, Catherine Nesbitt, Betty -- I don't remember their last names --

Q Were they all women?

A All women.

Q To the best of your knowledge, were they all previously light cleaners or maids?

A All previously light cleaners.

Q To the best of your knowledge, were they all persons who had been notified of layoff?

MR. STITT: I object to the form of the question.

THE COURT: I will sustain that.

Q Do you know whether the other persons were to be laid off with you?

A I do.

Q Were they all to be laid off with you?

A Yes.

Q The training program you were put into, who were the instructors?

A Who was my instructor?

Q Yes.

A Mr. Thomas.

Q Do you know who Mr. Thomas is? Had you ever

seen him before?

A Yes.

Q Who was he?

A We called him a supervisor.

Q What do you mean by that?

A I'm not sure what category.

Q Was this training in a classroom?

A No, not all the time. We was -- We started off --

Can I explain?

Q Please do.

A We started off with the scrubbing machine. He taught us how to handle the scrubbing machine, polish the floor. He had this container to show us how to polish it and maneuver the machine.

Q Was that the first night?

A That was the first night.

Q Did you spend the whole night on the scrubbing machine?

A Yes, to get the feel of it.

About seven o'clock we went to the classroom.

42 Q That is seven in the morning?

A Seven in the morning. We went to the classroom and he instructed us of our duties, gave us pamphlets of our

duties and what we were supposed to do in our safety, and then he got a pail of water and a sponge and was teaching us how to wash a blackboard.

Q Did each of you use the scrubbing machine that night?

A Each one of us.

MR. STITT: By way of clarification, your Honor, I wonder if the witness is referring to a stripping machine.

THE COURT: I was going to ask to have a stripping machine described for the record.

THE WITNESS: It is the same.

THE COURT: What is the scrubbing machine like? What does it do?

THE WITNESS: It has like a motor. It sits that high (indicaging). There are different size scrubbing machines for different rooms. Some of them is about this round in diameter (indicating).

THE COURT: A couple of feet in diameter and three feet high?

THE WITNESS: Yes.

Then you have like a plate. You put it underneath it, a round disc. That is to hold the scrub pad. The scrub pad, it is like Brillo, like the material made out of Brillo.

THE COURT: In other words, you had a steel wool pad and you hold that pad on with some little plate that is screwed on the bottom?

THE WITNESS: The plate, yes. You put the plate on and then it locks. You turn it away and it locks. Then you set the machine on top of the steel wool. It holds the steel wool like.

THE COURT: You turn it on a wheel with the steel wool, round and round?

THE WITNESS: Yes. He taught us how to maneuver from side to side, backwards. How to -- if there is a stubborn spot in the floor, how to get the spot out.

Q Each one of you tried it that night?

A Yes.

Q How big a space --

A We were in the hall and we didn't use water that night. We only used the polish. That was our first night with the machine.

Q Were you paid extra that night? Were you paid anything?

MR. STITT: I object to the form of that question, your Honor.

THE COURT: Yes.

Q Were you given extra wages above the janitor's pay for use of the scrubbing machine that night?

MR. STITT: I object to "that night."

Q The first night of training.

A I don't remember.

Q Can you tell us what happened on the second night of training?

A The second night?

Q What did you do?

A We used water with the machine the next night.

Q Was that the same machine?

A The scrub. There was a little area.

Then we went to the basement and he showed us how to clean out the stockroom.

Q You cleaned out the stockroom?

A Yes.

Q What did you do?

A That was containing the 55-gallon drums, and he showed us how to move it, replace it. and then we scrubbed the room and cleaned it and put the drums back.

Q To be very clear, when you say you scrubbed -- I used the scrub machine.

Q Whenever you refer to the scrubbing --

A When I refer to scrubbing, I mean I used the

scrubbing machine.

Q Did you move the 55-gallon drums?

A Yes, I did. Two of us together, two put it back.

Q How did you move it?

A It is a stand. It is about that long, from this to here.

MS. GOODMAN: Is that about three feet?

THE COURT: I'm not sure what she is talking about.

THE WITNESS: It is a stand.

THE COURT: What does the stand look like?

THE WITNESS: It has no wheels.

THE COURT: These drums are on a stand?

THE WITNESS: You put them on a stand. The drums are sitting upright.

THE COURT: You pick them up and put them on a stand?

THE WITNESS: You don't pick them up. No man picks these drums up. You lean the stand over. You don't stand it on edge, and then you take and push the drum, the two of you, one holding the stand in the back of the stand, hold it while one pushes the drum on to the stand, and then automatically the stand sits up.

Q Is this like a cradle?

A Yes. It is round and it has a center for the drum to sit on.

THE COURT: When you are through, the stand is lying down horizontally?

THE WITNESS: Yes, and you push it in place where the drum belongs and you open the drum with -- what would you call it? A monkey wrench. That's what I would say.

Q You open it?

A And then you put the spigot in.

Q In cleaning out the stockroom you move this drum?

A Move drums, machinery.

Q Where did you move it to from there?

Did you move it --

MR. STITT: I believe the witness is in the middle of an answer. I would like to hear it all.

MS. GOODMAN: I'm sorry.

THE COURT: Go ahead.

(Record read.)

MR. STITT: I thought she was going to go on and describe some other items.

THE WITNESS: Yes. Whatever is in the stock-room: toilet paper, paper towels, anything -- all the

supplies go out into the hallway.

Q How far was the hallway from the stockroom?

A The distance was to that door, outside that door (indicating); from here out to the door.

THE COURT: 15 feet?

MR. STITT: Agreed, your Honor.

Q Did you move the drum that far also?

A Yes. Any place that I had space for it.

THE COURT: How did you move the drum?

THE WITNESS: Pushed. One in front and one in back.

THE COURT: Did you roll it on its edge?

THE WITNESS: Upright. On the horizontal.

THE COURT: Did you slide it?

THE WITNESS: You slide it.

THE COURT: The two of you slid it?

THE WITNESS: Two of us. One cannot -- one man or woman cannot move those drums.

Q You said you cleaned the stockroom?

A Yes.

Q What did you do?

A We scrubbed. We used the scrubbing machine.

Q Did you do anything else?

A Then we went back to class. We did another

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room, scrubbed. That was in Mudd.

Q When you scrubbed the stockroom out, had it been scrubbed recently?

A From the soap and wax- to my knowledge, from my experience of cleaning, it had not been scrubbed in about a year, because the soap and the wax was caked, and that's why we had to use the scrub machine, to get up the wax and the soap.

Q After you finished at that chore on that second night in Mudd Hall, what did you do?

A Went back to class.

Q After you did the scrubbing?

A Went back to class.

Q What happened in the classroom?

A Instructions.

Q How many people worked in the storeroom or the stockroom?

A The first two weeks we stayed together because we was under supervision. He was teaching us safety.

Q How much time did you spend scrubbing that second night?

A My recollection is until about seven.

Q You came on to work at what time?

A We went down about 12.30.

Q From 12.30 to seven you scrubbed?

A Yes.

Q You spent the first week cleaning at Mudd Hall. Can you describe some of the other things you did during that week?

A We had instruction on washing down the walls, damp mopping most.

Q When you washed down walls --

MR. STITT: I believe the witness was still in the midst of an answer.

THE COURT: Were you?

THE WITNESS: I was trying to think what else we did.

THE COURT: Go ahead.

Q Let me ask you this:

How were you taught to wash down walls?

A I was taught to start from the bottom and go up, wash from the bottom up.

Q Were you taught with a ladder?

A No, we was not. We was not given a ladder.

Q In the next few weeks of your training can you describe in general the type of work that you were given to do?

A After that they started taking us out of Mudd

and putting us in buildings. One building that they sent us to, Journalism. In Journalism I worked before I took training. Trash was there. There was a book store that was being taken over by another company. They was throwing out trash. They had trash in the hallway for two months before I left. There was three janitors there and not one moved -- so when we came on they took all seven of us over to Journalism to clean out that basement. Five was in the basement and two were on the street, myself and Mrs. -- Helen --

Q Mrs. Gilliam?

A Mrs. Gilliam was on the street.

As the elevator came up we unloaded the elevator and pulled the garbage, put it on this hand truck, this little hand truck, and pulled it down a quarter of a block. Then we would come back.

43 We had to keep unloading the elevator and piling it up on the street until we, you know, make sure they kept the elevator clear so it could go back down for them to fill it up for us. We had to take it down a quarter of a block and unload the truck and come back and, you know, while one unloaded the other one was pulling. We took turns, you know, switching around, one pulling and one loading.

Then, after that, after we got all that trash out, we had to clean it, scrub with the machine, but the machine blew the lights out. So they decided to wait until daylight because there was no lights, and they took us up to the sixth floor to do an office, damp mop and wax the office until daylight.

We went back downstairs and we had to use soap and water, no machinery because we had no electric, and wax it, clean the banisters from the street leve, the steps, everhthing, down the whole basement, do the telephone booths, wash down the telephone booths, and wax and scrub the hallway.

Q When you waxed and scrubbed, could you tell the last time that job had been done?

A It was so corroded as far as scrubbing that area -- it had belonged to someone else so I would not know.

Q What kind of refuse, garbage, were you unloading all night?

A Glass, books, plaster, bottles.

Q You said you used a small hand truck. Will you describe that?

A It was not a hand truck.

Q What was it?

A It was a platform like they use for delivery.

Q A platform truck?

A Yes.

Q Can you describe that platform truck?

A It was square with four wheels.

Q About how large is it? In length how long is it?

A It was about this long (indicating).

MS. GOODMAN: That's about four feet?

MR. STITT: I would stipulate four and a half feet by approximately four to four and a half feet.

MS. GOODMAN: It was about four by four?

MR. STITT: I am a lawyer, your Honor, and not a navigator.

Q How high does it stand off the ground? Is it on wheels?

A Yes.

Q How high does it stand off the ground? Is it up to my waste?

A It is flat.

Q So it is just about five inches, ten inches?

A I would say it is like this (indicating).

Q About a foot?

A Yes, sir.

Q How do you move that around?

A You have a cord on it and you pull it.

* * * * * * [353]

Q After the night at Journalism, can you tell us something about the other tasks and the other assignments you had in the course of your training.

MR. STITT: May we have dates and places, your

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Honor?

Q When you tell us, let's say right after Journalism

A I can't tell you the dates but I can tell you the places.

THE WITNESS: Is that all right, your Honor?

THE COURT: To the extent you can, fine.

MR. STITT: Can we fix the months, your Honor?

THE COURT: This is part of the training program. How long did that last?

MS. GOODMAN: She has testified that it lasted six weeks.

THE COURT: It is in that six-week period then. You may proceed.

A (Continuing) After Journalism I went to Uris Hall.

Q Tell us what you did in Uris Hall?

A I had to scrub that night, three of us, anything.

MR. STITT: At this time we have an area of ambiguity. The witness has referred to what others have called a stripping machine as a scrubbing machine and now she refersto just plain scrubbing. It is not clear to me whether this was with a mop or with a machine or what.

MS. GOODMAN: I think we did establish in earlier

testimony whenever she refers to scrubbing she used the stripping machine. It seemed to me in speaking to all the people we have spoken to it is a common use of the term.

THE COURT: Is that what you meant?

THE WITNESS: That's what I meant.

THE COURT: Proceed.

BY MS. GOODMAN:

Q Whenever you speak of scrubbing --

A I will say stripping.

Q Will you describe what you did in Uris Hall that evening?

A They gave me this big classroom, three of us, and it is like a threate. It goes up like steps and it had these desk tops you fold down. From the way the -- I had to pull the machine up the steps. I didn't mind that because I can hendle it, but when I got up there the cord was defective. In training we was taught never to use a cord that the wire was stripped on, that you could see the wire, because if it gets in water you would be electrocuted.

So I call for Mr. Jackson and told him I would not use the machine because we was taught never to use that kind of machine, that the cord was stripped. He got another one. I brought it downstairs and they brought me another

one. I had the janitor bring me another one.

I took that up. By being inexperienced he gave me that kind of job to do in training. The seats has a metal base and it is bolted to the floor. I had this much space between (indicating) and if I had hit the metal base it would have thrown me from the top to the bottom, and no janitor has ever, from the way the yellow on the wax on the floor, had not been up there with a machine. It was just soap and water and wax that they had been using. I had to strip with the machine all the way down.

Q How large was this? You said it was very large. How many seats rather than dimensions.

THE COURT: She indicated a space of a foot and a half to negotiate the machine through.

A I would say there were 35 or 40 rows but it was four space, you know --

Q Down the middle?

A Yes, down the middle. I can't estimate how many seats because I was just worried about hitting those metal plates.

Q Were you paid extra for that job?

A Yes.

Q How much extra?

A 25 cents on the hour.

Q Every time you scrubbed?

A Every time I used the scrub machine.

Q You were paid extra?

A Yes.

Q How much?

A 25 cents on the hour.

MR. STITT: May we stipulate that that was over and above the janitor's rate that she was also getting.

Q You were receiving the janitor's rate at that time?

A Yes, I was.

Q And the 25 cents was over and above that?

A If you used the mahine.

MR. BERKE: I stipulate that that contract provides that any person who scrubs receives that 25 cents so that a janitor who scrubs also received that 25 cents, scrubbing and stripping meaning the same thing.

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Q That was a whole night's work. What other jobs and places did you work at while you were on the training program as a janitor?

A I worked in Law, the library.

Q What building?

A Law.

Q Tell me about the Law Building. How long did it take you to strip there?

A From 12.30 until eight.

Q You had a lunch break?

A A half hour.

Q You were paid extra for doing that job?

A Always when you use the stripping machine.

Q Would you tell us about other places that you worked during your training period.

A Well, we always went back to Mudd or Uris to do

classrooms, and in Mudd we did libraries, stripping. It was mostely stripping.

Q How much of your time during the course of your training period, this six-week period, was spent on stripping?

A We went to Journalism to do the Venetian blinds. That's the first time we used a ladder. One held and the other climbed. I worked in Journalism Library for three years, and they only had been cleaned a year and a half before I got to be a janitress. It was the first time they had been cleaned.

45 Q You know that because you had worked in the building?

A I know because I worked in the building.

Q How many janitors are regularly assigned --

A Three is in Journalism.

Q Were those three assigned in Journalism while you were on your training program?

A They were there when I went back to the training program.

Q While you were cleaning the blinds in this training program, were any of the male janitors assigned there working with you?

A No.

Q Was there a supervisor there with you?

A They come in and out.

Q How often did they come in and out during the course of the night in Journalism?

A Well, Mr. Blackwell is assigned to Journalism. He came in, I think, twice.

Q Was he the trainer?

A And Mr. Billie.

Q That's his first name?

A That's his first name. He came to check on us to see that we were safe. That's one thing: they always looked out for our safety.

Q Did they watch you while you worked, while you performed the task?

Was the supervisor watching you?

A In the beginning when we started they was instructed to tell us to always have one to hold the ladder and the other one climb.

Q You say in the beginning. For how long? One week or two weeks?

A We only cleaned that one night. We didn't stay one place.

Q When you were doing the stripping in the auditorium, the theatre, as you call it, in Uris, was

there a supervisor with you?

A He came once.

Q Who was that?

A Mr. Jackson.

Q Was he one of the trainers?

A That trained us?

Q Yes.

A No.

Q How much time during the six-week training period, approximately, would you say of your work day was spent on stripping and scrubbing?

MR. STITT: Is this in terms of total time or on a particular given day?

Q In terms of the total amount of time, what per cent would you say for the six weeks?

A Three quarters of the time stripping.

THE COURT: This is the whole six weeks?

THE WITNESS: Yes.

Q You don't mean three quarters of the time in one row?

A Not in one row.

Q While you were in your training program did you have a uniform during the six-week janitress program?

A I had a maid's uniform.

Q For the entire period?

A Until a week -- two weeks. We had to go up for measurements, and then the next week we got the uniforms.

Q When you say a "maid's uniform." describe that?

A I was wearing a dress.

Q You got your janitor's -- describe the janitor's uniform?

A It was a male outfit.

Q What do you mean by that?

A Well, a male outfit. The shirt buttons to the left -- no, it buttons to the right. The shirt was all right. The pants, women's pants, fits. If she wears a man's pants it may be fit in the hips but it would be too small in the waist. If it don't fit in the hips then it is too big in the waist. So I had a uniform, very uncomfortable. The hips fit -- it was too small.

Q You say the hits fit?

A It was tight.

Q The hips were tight?

A Yes, and the waist was too big. The zipper would not --

THE COURT: You will connect it?

MS. GOODMAN: Yes. I think there are many ways people can be deterred On jobs, and it is relevant that it

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describes the conditions under which a female employee was asked to work. There are oth er incidents that we will link of later.

THE WITNESS: I complained about the uniform. The pants wouldn't fit.

Q Whom did you complain to?

A To Mr. Thomas and Mr. Shervington. They said they would get me a bigger outfit, but, in the meantime, the pants wouldn't stay zipped and the waistline was too big, and when I used thd machine I had to work with the pants and the machine too, because if I din't the pants would come down.

I asked Mr. Jackson to give me, to loan me, a belt.

Q Who is Mr. Jackson?

A He is the supervisor of Uris. I asked him for a belt?

Q What did he say to you?

A He said, "If I give you my belt I have more to show than you have."

Q Did anybody else offer to assist in this problem?

A There were seven of us and him.

Q How did you feel?

A I was embarrassed and the other ladies couldn't

say nothing and I could not say nothing.

Q Did you ultimately get a uniform that fit you?

A I did get one uniform before they assigned me to a regular building.

Q After you completed your training program, your six-week training program, were you placed on a regular assignment?

A Yes. I was. I was placed in Uris.

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Q How long were you actually trained on the stripping machine where there was a supervisor present?

A When there was a supervisor present?

Q Yes.

A At all times?

Q Yes. The first time you said a supervisor showed you how to use it. How long did you use it that night?

A The first night?

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Q How long the first night did you use it?

A I used it about two hours. We took turns when we was in groups. When we was single, when we were paired off, I used the machine most of the time.

Q Was there a supervisor present at that point demonstrating how to use this machine?

A No, because I had learned how.

Q When did you learn how?

A I had learned how. Really in a week. I got so I could use it if I worked the cord -- I could use it with one hand.

Q You could use it with one hand?

A Work the cord with one and then work the machine.

Q Was it heavy?

A Not to me because nobody actually lifts the machine. It is on wheels. You get the wheels down when it is not in use.

* * * * * * *

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Q How many hours of stripping did you have to do before you were able to use one hand?

A Well, for myself, I am the type of person, I don't like anybody to get the best of me so I learned how to handle it in the second week.

* * * * * * *

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Q You began your six-week training period at the

end of August, 1972?

A Yes.

Q Six weeks later you were given a regular assignment?

A Yes.

Q That would be about the beginning of October of 1972?

A Right.

Q Who gave you your regular assignemnt? Who told you?

A Mr. Shervington.

Q What did he tell you?

A That I would be assigned to Uris working the main -- the cafeteria, the lounge, the hallway, the cloak room, the conference room, and to pull garbage, damp mop, dust mop, clean off the tables for the maids, and vacuum the conference room -- pull garbage, clean out the cloak room, damp mp and dust the hallways, clean off all the tables, the lobby, polish the chrome, the elevator, wipe it down, do the elevators, polish the elevators, vacuum the elevators, do the landings of the stairwells.

Q During that time when you were a regular janitor in early October did you do any stripping?

A No stripping.

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Q Did you operate any heavy motor dirven equipment, cleaning equipment?

A No.

Q Describe the vacuum you used?

A It was a light vacuum.

Q How much did it weigh?

A I used to have to use it -- approximately 20 pounds. I'm not sure if it is 20 pounds. I'm not godd on weight.

Q Was it similar to the same as the ones you had seen the maids using?

MR. STITT: I object to the word "similar."

A It was the same because I used the maid's.

THE COURT: The answer may stand.

Q Did you wash walls, glass partitions, or blackboards?

A No. I worked the lounge, the kitchen, the cafeterial.

Q Did you clean the kitchen?

A i kept the floors -- the floor and pulled the garbage.

Q When you kept the floor what did you do?

A Damp mopped and dust mopped and pulled the garbage.

Q What type of equipment did you use when you damp

mopped?

A A mop, a wet mop.

Q How long was it in inches?

A I would say 24-ounce mop.

Q Did you hose any sidwalks?

A No.

Q Did you shovel snow?

A No. That's for a grounds man.

Q Did you change any light bulbs?

A No.

Q Did you turn on and off any ventilation equipment?

A No.

Q Were you ever asked to do any of these things?

A No.

Q Did there come a time when you asked for a transfer?

A Yes, when I first went there.

Q When you first went to Uris Hall?

A Yes, when I was assigned to work at Uris Hall because I know from the pants incident, the belt --

MR. STITT: I object to that.

THE COURT: Strike that.

You applied for a transfer at the very time you

went on active service as a janitor?

THE WITNESS: Yes.

Q What did you apply for a transfer to?

A To any building.

Q As a janitor?

A As a janitor.

Q Whom did you make that request of?

A Mr. Shervington.

MR. STITT: If your Honor please, I am confused now. We have had some testimony she asked for a transfer back to maid.

Q When you first went there you requested that you talk to Mr. Shervington?

A Yes.

Q What did you ask him?

A I would not like to work in Uris Hall but I would still like to be a janitor.

Q Did you tell him why you did not want to?

A No. Because I was too embarrased.

Q What did he say?

A He said to give him a couple of weeks. I gave him a couple of weeks. I called him --

Q Who is "him"?

A Excuse me.

I called Mr. Shervington and Mr. Shervington, he kept telling me that he is going to see.

THE COURT: I gather, Mrs. Moss, upon going to Uris Hall you told somebody that was a supervisor to you that you wanted to work some other building but you didn't tell him why.

THE WITNESS: That's right.

THE COURT: He said he would get back to you in a couple of weeks?

THE WITNESS: Yes. He would transfer.

Q Who was your supervisor at Uris?

A Mr. Jackson.

Q How often did you speak to Mr. Shervington during this period?

A Well, when the first week passed I would call him and ask him and he said, "As soon as I find a place for you you will get a transfer."

He used to come over and say, "You are doing a good job."

It got so Mr. Jackson -- he gave me a job. There is a door leading to the campus walk and spider webs had grown from top to bottom. The leaves from the outside had broken in, never was cleaned, and to my knowledge to get spiderwebs from top to bottom of a door it had to be

months before it accumulated like that, and he told me to go clean it. I cleaned. I didn't complain. They gave a party --

Q Before you tell me about that incident, were you ever told that cleaning spider webs would be --

A He told me to clean it out.

Q Were you told that that was part of a janitor's job?

A Nobody told me anything. I only was supposed to do as I was told.

Q Was it your belief at the time that these incidents were happening that you were getting more work than other people?

MR. STITT: I object.

THE COURT: Sustained.

MS. GOODMAN: The state of mind --

THE COURT: It has to be attributable in some way --

MS. GOODMAN: Mr. Jackson is a supervisor at Columbia University. That has been testified to. I don't believe it will not be stipul ted to. He is a supervisor --

THE COURT: I sustained an objection to that question.

MS. GOODMAN: We will take our exception, of course.

BY MS. GOODMAN:

Q Mr. Jackson was your supervisor at that time?

A Yes.

Q Was it Mr. Jackson who asked you to clean the spider webs?

A Yes.

Q Who asked you?

A Mr. Jackson.

Q Were there any other incidents of work --

THE COURT: Let me ask you this:

Mrs. Moss, you say you were never told that cleaning spider webs was within the duties of a janitor but on the other hand janitors' duties do include heavy cleaning?

THE WITNESS: I understand that.

THE COURT: You understood that this was cleaning?

THE WITNESS: Yes.

Prior to me, before I got there, there was a janitor there before me.

THE COURT: All I am trying to ascertain is whether --

THE WITNESS: That was under my line of duty.

THE COURT: Cleaning was under your line of duty, spider webs or whatever?

THE WITNESS: Yes.

THE COURT: You may proceed.

BY MS. GOODMAN:

Q When you took on the job, did you replace another person, another janitor?

A I dould not tell you that because I was not working over there.

Q Were there other janitors at Uris Hall when you arrived to be the regular janitor?

A Yes. I see them come up to the cafeteria lunch hour.

Q Were those janitors male or female?

A Male.

Q Were there any female janitors?

A I was the only female janitor.

Q Was there a time when you asked to be transferred back to a maid, a maid's position?

A Yes.

MR. STITT: I will object to any conclusion. She's about to say she felt --

THE COURT: The answer is you did ask to be transferred back?

THE WITNESS: Yes.

Q What were the incidents that led to that?

A They gave a party.

Q Who gave a party?

A I don't know, but it was in this conference room. So I had to pull all the garbage. I had to damp mp the floor, the cafeteria, and the lounge. The maids came in behind me, went into the conference room. There was wine, beer, soda cans, and they had a single bag, and when it is heavy like that you can't put it in a single bag. You have to put it in a double bag to keep it from dripping.

So Mr. Jackson came behind to check and he went into the conference room, pulled out the bag, and all the bottles, the wine, the beer, and everything, it went all over my floor and it run down all the way down the area where I had cleaned. I thought he was coming back to pick it up, at least move the bag.

So I waited until after lunch. He didn't come back. So I got another new pail of water and a mop and I went back. I moved the garbage, put it in a double bag, moved the bottles and stuff, and I did the floor all over. I had to do the whole area over again, and we was told, once you do something you don't go back, but I could not leave that. It was smelly and so I had to clean that up.

I had cleaned and dusted the elevator. The elevator in Uris is chrome and you have to keep it polished. I vacuumed the rug, and I wiped down the elevator with the yellow dust cloth.

Mr. Jackson came with a toy broom, a yellow cloth, and a dust broom -- dustpan, and he went over my work.

So it upset me because I know I had done it with the vacuum, dusted it, so I called Mr. Shervington. I could not take no more. So I called Mr. Shervington and told him, "I want to go back to be a maid," and he said he wo uldn't give me a transfer.

I said, "I have to go back to the maids because I can't take any more."

Q Did Mr. Jackson offer to help when he dropped the bag?

A Mr. Jackson dropped the bag and left.

THE COURT: Jackson was your supervisor?

THE WITNESS: Yes.

THE COURT: You say you wanted a transfer from the building and the person you spoke to said he would not give you a transfer?

THE WITNESS: He didn't say he would not. He told me he would let me know.

THE COURT: If I understand what you are saying, your first request of Columbia was to get you to another building so that Jackson was not your supervisor?

THE WITNESS: That's right.

THE COURT: And then when that didn't happen you then asked to be transferred back to be a maid?

THE WITNESS: Right.

BY MS. GOODMAN:

Q Did Mr. Jackson, who was your supervisor in Uris, the same Mr. Jackson you told the belt story about?

A Yes.

Q When you were in Uris on your regular assignment as a janitor, did you ever use a ladder?

A No.

MS. GOODMAN: I have no further questions of this witness.

THE COURT: Mr. Berke?

DIRECT EXAMINATION

BY MISS RODENHAUSEN:

Q You testified that you started to work at Columbia University on October 15, 1969; is that correct?

A Yes.

Q Where were you assigned to work at that time?

A Journalism.

Q In the Journalism building? What was your job classification at that time?

A As a maid.

Q What was your assignment in the Journalism Building in 1969?

A My assignment was fourth and third, fourth floor and third floor.

Q What did you do on the fourth floor?

A The fourth floor I had a library. I had to dust shelves, clean off tables, polish the tables with furniture polish, vacuum wall-to-wall carpeting, keep the shook-shelves clean, and keep the office clean.

In the library, the paper, they didn't let the maids pull the paper, newspapers, because we didn't have any carts anyway.

Q How were you carrying your supplies while you were cleaning the fourth floor in the Journal ism Buidling?

A In a shopping bag or plastic bag.

Q Where did you get the shopping bag from?

A I used to bring it from home or if it was thrown in the garbage I picked it up and used it.

Q You were taking your supplies from one room to another?

A From one floor to another and one room to another.

Q Were there any other rooms or offices that you cleaned on this fourth floor?

A Yes.

Q What were they?

A There was a lounge, a student lounge, and offices and a world room, a tremendous room where they have conferences, parties, and sometimes they make it out to be a classroom.

Q How long is this world room compared to the courtroom?

A I can't place that with this.

Q Is it larger than this?

A Much larger than this.

Q You say it is two or three times the size of this?

A I say it is twice the size of this.

Q What was In that room?

A Couches, tables, chairs.

Q Was this room carpeted?

A Microphone, platform.

Q Was this room carpeted?

A Wall-to-wall.

Q Was it your job to vacuum this room?

A Yes, and to dust.

Q Is there anything in the world room you would clean?

A If they have parties I have to clean off the tables, put the dishes in the kitchen, clean the kitchen, but not the dishes.

Q What would you clean in the kitchen?

A I would wash the stove, the refrigerator outside, and the sink, keep the chrome shining.

Q Is there any other floor besides the third floor in the Journalism Building that was your assignment to clean?

A The fourth floor.

Q What was on the fourth floor?

A A printing lab, a classroom, a dark room, and part of the library extended to the fourth floor.

Q What would you do when you go in to clean the printing lab?

A Dust mop the floor and the ash trays, wash them, dust, and keep the table washed, the black ink off the tables.

Q What do you use to wash the black ink off the tables?

A I carry a pail of water upstairs. I get it from the slop sink on the third floor. I kept my pail.

Q Do you have to refill this pail of water on the third floor when you are through with using it on the fourth floor?

A Yes.

Q How often do you have to refill this pail of water?

A According to how dirty, how much ink, you know, how the water is, because it would be smeared. There was orange tables and if the water turned black it would smear the tables so I had to carry that pail of water back down and empty it and come back with my soap and water.

Q Did you have occasion to do this two or three times a night or five or six times a night or once a night?

A You mean carry the water --

Q To refill your water pail.

A There was a big lab and a dark room so I had to refill it some nights three or four times.

Q How would you clean the dark room?

A The same way.

Q The same way as you cleaned the printing lab room?

A Yes. Wipe off the table, the ink, anything on you clean it off.

Q Are these rooms carpeted?

A No. Those rooms were cleaned with a dust mop.

Q Would you dust mop these floors, the dark room and the lab on the fourth floor?

A Yes.

Q Was it your regular assignment to clean the third and fourth floors every night?

A Yes.

Q Did any other maids work with you on the third and fourth floors in the Journalism Building for these years?

A No. Only once we had started to go from the top to the bottom.

Q From the top floor --

A From the seventh floor. All of us worked together.

Q How many are you talking about?

A We only did that for a couple of months and it didn't work out.

Q How many people were working with you during those couple of months?

A At the time there was four maids.

Q Four maids would clean from the seventh floor down to the bottom floor in the Journalism Building?

A Yes.

Q Did there come a time when you were no longer assigned to the Journalism Building as a maid?

A That's when I applied for janitor work.

Q That would be from your previous testimony some time in August of 1972?

A That's right.

Q You applied to be a light cleaner again in the fall of 1972. Did there come a time when you did work again as a light cleaner in the fall of 1972?

A Yes, I did.

Q Where were you assigned at that time?

A Philosophy.

Q What were your assignments in the Philosophy Builing in the fall of 1972?

A Well, I had all of the fifth, the fifth floor, the fourth floor mezzanine and half of the third floor.

Q What would you do in the fifth floor in the Philosophy Building?

A I have classrooms and offices.

Q How many offices were there?

A I say approximately -- I never take time to count anything.

Q Give us your best estimate.

A My best estimate is 15 or 20.

Q About how many classrooms were there in this building on the fifth floor?

A I have two classrooms.

Q What would you do in these offices and classrooms on the fifth floor?

A I dust, pull garbage, and do the bookshelves, polish the desks, wash ash trays, and dust mop the floors.

46 Q Where were you getting your supplies from to do these chores?

A I get them from the supply rooM on the No. 1 floor.

Q How do you come up from No. 1 floor to your job assignment on the fifth floor?

A Elevator.

Q Do you bring the supplies with you in a paper bag?

A No. I put them on my cart.

Q You have a cart. What is on the cart?

A My cleaning, my soap, my dust cloth, my toy broom, a plastic bag, rags.

THE COURT: Haven't we had this? One witness has testified what was on the cart.

MISS RODENHAUSEN: Not in the Philosophy Building.

THE COURT: Is there a difference in what is on

a cart from one building to another?

THE WITNESS: Same cart.

THE COURT: Let's go on from that.

MR. BERKE: I believe the carts that were testified to were carts in Residence.

THE COURT: She said it was the same cart. You are not a witness.

MR. BERKE: Sorry, your Honor.

May I make a statement?

MR. STITT: I would object. The witness is on the stand.

Q You take this cart into your offices when you clean on the fifth floor. Do you have occasion to move furniture in these rooms as you clean?

A Yes. I have to move the chairs to get under the desks.

Q What do you do after you do the fifth floor? Where do you go?

A I go to the fourth floor.

Q What do you clean on the fourth floor?

A I have nine offices there.

Q What do you do in these offices?

A I dust mop -- the same as I do on the fifth floor.

I forgot to tell you, I dust mop the hallways.

Q You dust mop the hallway on the fourth floor also?

A Yes.

Q Do you have occasion to move any furniture on the fourth floor in these offices?

A I have to move the chairs and place the chairs back.

Q Do you do anything in addition to moving the furniture while you are dusting on these floors?

A Polishing the decks.

Q What is involved in doing that?

A It is according to what kind of furniture polish my supervisor gives me. There is a kind that you mix with water and you have to mix it half with water and you put it on the desk. If you don't get it off -- first you have to put it on. You move the papers to one side. You put it on and then you got to rub it to make sure it does not stain the professors' or the secretaries' papers.

Q You said there are nine offices on this fourth floor. Is there one desk in each of these offices?

A NO. There is more than one desk.

Q Per room?

A Yes.

Q What do you do after you do the fourth floor? Where do you go?

A I go to the third floor.

Q What do you do on that floor?

A I have three laboratories. I call them classrooms. They have like recording tables, desks, and there is fifty on one side. I have two and one. Fifty recording tables, you know, seats, and wall-to-wall carpeting. I have to pull garbage, dust -- I am not allowed to touch the tables because the recording might get ruined.

Q You dust around the recording equipment in these rooms?

A I dust all the woodwork but the desks where the recording machines are --

Q You say there are fifty tables in this?

A One side.

Q On one side?

A That's right.

Q One room?

A Yes, and thirty-five on the next side. Then I get another one, the same, the same identical thing, on the other side of the hall.

Q You are saying --

A That's thirty-five in there.

Q Did you have occasion to count these tables?

A Yes, I did.

Q When did you do that?

A Well, I counted Tuesday night.

Q You mentioned these rooms are carpeted?

A Wall-to-wall carpeting. I have to pull out every chair. It is an extra heavy vacuum.

Q How do you know that it is extra heavy?

A Because I have used lighter vacuums.

Q When?

MR. STITT: If your Honor please, extra heavy, She specified --

THE COURT: I will strike that answer.

Let's get a description of it.

I think it best we recess now until probably about ten minutes after three.

We will stand in recess.

(Recess.)

BY MISS RODENHAUSEN:

Q Mrs. Moss, when you are working in the Philosophy Building on the fourth floor, do you have occasion to use a vacuum cleaner?

A On the fourth? No.

Q Do you use it on the third floor?

A I use it on the third floor.

Q Did you use a vacuum cleaner in the Journalism Building when you worked there from 1969 to 1972?

A Yes.

Q Describe to the Court, in your own words, the difference, if there was any, between the vacuum cleaner that you used in the Journalism Building and the vacuum cleaner that you used in the Philosophy Building?

A When I first went to Journalism I had a smaller vacuum but I complained that it took too long to pick up the clippings from the paper, where they clipped the newspaper, to put them in big leather folders, and it was too small to cover the area.

Q Smaller in height?

A Smaller and the width and the suction.

Q Were the bags smaller on the vacuum that you used in the Journalism Building?

A The bags smaller? Yes. No. It was the same bags.

Q Same size bags?

A But the vacuum -- then they got me a bigger one, a heavier one.

Q In the Journalism Building?

A Yes.

Q The vacuum cleaner that you were using in the Philosophy Building -- Did you have occasion when you were a heavy cleaner in the Uris Building to use a vacuum cleaner?

A Yes. That was a small one.

Q Would you compare that vacuum with the one you sued in Philosophy?

A Not at all. It was like the new on they got me for Journalism. That weighs about 30 pounds.

Q Which one?

A The one I use now.

Q "Now" being --

A When I have to fill it up -- I don't mean I have to fill it. It fills up that one area three times. I have to empty the vacuum three times in one area, and that is supposed to be the heaviest one that the maids use.

Q While you are cleaning the third floor in the Philosophy Building is it your testimony that you have to empty the bag three times?

A Yes.

Q How does that compare with the vacuum cleaner that you use as a heavy cleaner when you clean the Uris Building?

A It is not the same as the one I use at Uris. There is nothing compared to that.

Q Describe why you cannot compare these two vacuums?

THE COURT: No, no.

Tell us what the one looked like that you had in the Uris Building.

THE WITNESS: It is about this wide (indicating).

THE COURT: Two feet across the bottom.

THE WITNESS: Yes, and it has a height, but it is heavier and it has more suction.

Q How high is it?

A Well, can I stand, please?

When it is upright it comes here to me (indicating).

THE COURT: Up to your waist, in other words?

THE WITNESS: Up to my waist.

Q About three feet?

A Yes. When I let it down, you know, you can't vacuum upright, you have to vacuum on a slant.

Q What do you do with this vacuum cleaner when you finish cleaning the third floor in the Philosophy Building?

A I put it on the elevator after I empty it. I put it on the elevator for whoever wants to use it. The janitor uses it.

Q Have you ever seen the janitor use this vacuum cleaner?

A Yes, because there is a room we call 301. It is a student lounge, a graduate student lounge. We have to go in there in the morning, three of us, and clean that lounge.

Q You say "three of us." You are talking about --

A Three light cleaners.

Q Did you see the janitor using this vacuum?

A I can look out the room when we are dusting and see him using it. We go down at seven o'clock in the morning when it is daylight so we could see the dust.

Q Your duties were to clean the third floor, the fourth floor, and the fifth floor. Did you do anything else in the Philosophy Building?

A No, but if someone is out we double, we call it "Double up."

Q What does that mean?

A There is three maids in a building, in that building, the Philosophy Building. When one stays out you have to do her work. The main thing is to keep the classrooms in order.

Q Who do you cover for?

A I cover for the maid when she is out.

Q Do you know the names of these maids?

A Mrs. Benson and Mrs. --

Q Would it be Mrs. Gambrel?

A Yes.

Q What assignments do you do when they are out?

A Empty and wash ash trays, empty the garbage, dust mop and clean off the deks for the students in the classrooms, clean the lounge, keep the lounge in order so when students come in it will be in proper order.

And the offices, when a maid is out, all we do is empty the wastepaper cans, clean the ash trays, and if there is large pieces of paper on the floor we get those up, and then we go and do the floors we are assigned.

Q During the week before this trial commenced, last week in August, on how many occasions or on how many nights were you asked to cover for other maids who were out?

A Well, I have covered for Mrs. Benson and Mrs. Gambrel. Last week I covered for Mrs. Gambrel. She was out on two nights. I got caught in the rain and I was out two nights.

Q On the nights --

A When I was working I had to cover for Mrs. Benson. Last night the three of us was in so they took Mrs. Gambrel out the building and I had to cover for her. Mrs. Benson and I had to pull garbage and do her floor.

pgs Moss-direct [398]

Q What about the week before that in August? Can you tell us how often you covered during the second and third weeks in August?

A I covered for Mrs. Benson the whole week.

Q During the period of time you have been regularly assigned to work in Philosophy, can you estimate for us on how many nights you do cover for other women?

A I can't tell you exactly. ONly when they stay out. Mrs. Benson has had a death in her family. We have been covering for her.

Q Did you have to cover on the average of one time a week or two times a week?

A We have to cover every night she is out. If she is out a week we cover a week, five days a week.

Q Have you done that?

A I have.

* * * * * *

[400]

CROSS EXAMINATION

XX BY MR. STITT:

Q You were asked about layoff notices that you received In January and again in August of 1972. I ask you, isn't it a fact that you were never laid off?

A That's a fact.

Q You were asked just at the conclusion of Miss Rodenhausen's examination about various types of vacuums.

Is it not true that the vacuums you have used are upright types?

A I have used piggybacks as a maid.

Q You used a piggyback as a maid?

A I put one on my back and I used it.

Q When was that?

A Journalism.

Q Are any of these vacuums that you have used as a maid heavy, wet, dry vacuum cleaners, industrial type?

A As a maid or as a janitor?

Q As a maid.

A Industrial type? You are talking about those round ones?

Q The big industrial type.

A The drums like?

Q Yes.

MS. GOODMAN: Industrial type? This witness does not know what an industrial type is.

THE COURT: Let's find out whether she knows.

MS. GOODMAN: Kindly ask for a description.

Q Can you answer the question?

A I have used it as a maid.

Q The heavy industrial type?

A I have used it as a maid.

Q How often?

A Before they got me -- this heavy vacuum, the rug got so terrible in the library and In the world room, and I didn't want to complain, so I used the "industrial vacuum," as you call it.

Q Isn't it true that generally as a maid you have used the upright type?

A Right.

Q You have estimated the weight of that type going up to 30 pounds?

A Yes.

Q You have also described for us your dust mop and your toy broom going through your maid's equipment?

MISS RODENHAUSEN: Objection, your Honor. I don't think she did describe it.

THE COURT: I heard her use the words "toy broom."

THE WITNESS: I used that.

Q As a maid, did you use these floor stripping or floor scrubbing machines?

A No.

Q As a maid did you use heavy wet mopping equipment consisting of 44-quart pais, wringers, dollies, and a solution and mop truck?

MISS RODENHAUSEN: Objection to the word heavy.

MR. STITT: Strike the word "heavy."

A No.

Q As a maid did you use the hand platform or trash trucks described during your heavy cleaner training?

A No.

Q As a maid did you use the 55-gallon drums of cleaning solvents?

A No.

Q As a maid do you or have you used stepladders or platforms as part of your regular duties?

A I didn't use a platform as a janitor. What is a platform?

Q I take it you did not use a platform.

Did you use a stepladder as a maid?

A No.

Q YOu mentioned expressing interest in a janitor, heavy cleaner's job, at a conference before the State Division of Human Rights on January 27, 1972?

A That's right.

Q I believe you mentioned that at some time thereafter you received a letter from Mrs. Bardax concerning a janitor's position at Residence Hall?

A That's right.

Q I am going to show you this document and ask you if that is a true copy of a letter which you received from Miss Bardax (handing).

A It is the same letter.

MR. STITT: I offer it in evidence. It was marked as Complainant's Exhibit 7 before the State Division of Human Rights.

THE COURT: May this exhibit be denominated as University Exhibit B for identiication at this point.

MR. STITT: I offer it as B in evidence.

MS. GOODMAN: No objection.

MR. DRYFOOS: No objection.

MISS RODENHAUSEN: No objection.

THE COURT: It may be received.

(Defendant University Exhibit B was received in evidence.)

xx Q Do I understand your testimony that it was a few days after this letter of February 2nd, 1972, University Exhibit B, that you met with Mrs. Bardax about that job in the Residence Hall?

A This is the same one you just showed me?

Q That's right.

A Yes.

Q You turned down that job because it was a day job and you preferred to work at night?

A Yes.

Q You testified that on or about August 14, 1972 you saw a posted notice for six janitors, heavy cleaner jobs in the Buildings and Grounds Department?

* * * * * * [406]

Q You knew, did you not, that these jobs called for the performance of heavy cleaning duties in the Academic adn Research Buildings?

A Did I know?

Q You knew that from the notice?

A From reading it.

Q You knew, did You not, that this job called for operating motor-driven cleaning equipment?

A I knew.

Q YOu knew that it called for stripping floors?

A That's right.

Q You knew that it called for wet mopping floors?

A That's right.

Q You knew that it called for polishing marble or brass?

A That's right.

Q You knew that it called for washing walls, glass partitions, and blackboards?

A Yes.

Q You knew that it called for moving heavy furniture?

A That's right.

THE COURT: Mr. Stitt, I think she has given you blanket answer that she knew of the requirements on the notice.

THE WITNESS: It was explained to me when I went to Mr. Acroff's office and from reading the notice.

Q It covered these 55-pound drums and the heavy mopping and everything shown in that exhibit?

A Everything.

MISS RODENHAUSEN: Objection to "heavy" again, your Honor.

THE COURT: Proceed.

Q Do I understand that you started training, in training status, on August 29th, 1972 as a janitor?

A Yes.

Q You started with a group of six other light cleaners?

A That's right.

Q That included Helen Gilliam and Betty Thomas?

A Yes

THE COURT: These are two that are still heavy cleaners?

MR. STITT: Yes.

THE COURT: Everybody is agreed on that?

MS. GOODMAN: Yes, your Honor.

Q You have testified concerning the supervision that you received from Mr. Thomas and Mr. Shervington during this period?

A Yes.

MR. STITT: May we mark these documents as University Exhibits next in order for identification.

(Defendant University Exhibit C was marked for identification.)

Q Is it true that during your first week which ended September 3rd you received instruction in toilet cleaning?

A Yes.

Q And also on Friday and Saturday of that week in the use of the floor machine.

I show you this document to refresh your recollection.

Did you receive training in the use of the floor machine on Friday and Saturday of that week?

A I don't recollect what day it was.

Q Some time during that week you did receive some training in the use of the floor machine?

A Yes.

Q And you also received training in buffing?

A That was the first we learned.

Q And scrubbing?

A Yes.

Q Stripping?

A Yes.

THE COURT: What is the difference? Can you establish that? I thought scrubbing and stripping were almost synonymous, but apparently they are not.

Q Describe for us the different training you recewied for stripping with the machine and scrubbing?

MS. GOODMAN: Excuse me. This witness has testified, I believe, as to what she did on the first two nights and for the first week. I don't believe she needs her memory refreshed. She has already testified and that is a self-serving document. He is trying to coach her into answers to the extent --

THE COURT: I think it is permissible. I overrule the objection.

MS. GOODMAN: Exception.

THE COURT: Mrs. Moss, you are only being asked to testify as to what your memory is. To the extent this Exhibit C helps you to remember something, fine.

You may proceed.

Q Explain for us the difference between your training in scrubbing and the training you received in stripping with the machine?

A Scrubbing and stripping is the same thing.

Q Did you receive training in heavy mopping during this first week?

A You mean moving the furnituure out of the room and --

Q I mean heavy mopping just as indicated on that.

MS. GOODMN: Objection.

MISS RODENHAUSEN: I object to the word "heavy."

Q Do you understand the term "heavy mopping"?

MS. GOODMAN: It means wet mopping. I think that's the term --

A How to use the wet mop.

Q The damp mop. Did you receive training in that?

A Yes.

Q What sort of training did you receive?

A What kind of training? I had to take the mop and pail and wring it out and put it on the floor.

Q Were you trained in the use of equipment in connection with that mopping?

A Water.

Q And the mop truck?

pgs Moss-cross [411]

A The mop truck. You put the two pails on the mop truck and wring it out with the wringer.

Q You mentioned Mr. Shervington. Do you recognize his handwriting on the first page of this exhibit (indicating)?

A I don't know his handwriting.

Q Did he talk with you from time to time as you went through your training period?

A He came to us.

Q Did he tell you in words or effect by the end of the first week --

A He said, "You are doing a good job."

Q He said you had shown improvement?

A He didn't say that. He said, "You are doing a good job."

Q Did you receive any comments from Mr. Shervington at the end of the second week?

* * * * * * *

* * * * * * *

A Mr. Shervington always came to us and watched us work and told us if we were doing good or bad. That's all I have. He told me I was doing good.

Q Did he tell you you were improving in mopping?

A He didn't say "improving." He said, "You are doing a good job."

Q Did he tell you you were a most willing worker?

A No.

Q Did he compliment you on being able to follow instructios?

A He complimented me. I didn't know he was behind me when I was using the mchine.

Q Would it be fair to say that Mr. Shervington gave you words of encouragement throughout the training program?

A And Mr. Thomas. Both gave me words of encouragement.

Q Throughout the training period?

A Yes, and when he used to come in, into Uris,

pgs Moss-cross [413]

and see me work.

Q That was after your training period?

A That's right.

Q You have testified that you did work with the floor machine, with a scrubbing machine, during the course of your training before you went to Uris?

A Yes.

Q Is it true that you have received pay at the janitor's rate during this entire heavy cleaning period?

A Right.

Q Is it also true that you received additional pay for those hours that you spent using this floor machine for scrubbing or stripping?

A Yes.

Q You were paid for all of those hours, were you not?

A As I stated in the beginning, for the first week I don't remember that part. I'm sure I must have.

Q You don't have any claim against the University for additional pay for using that machine?

A No. No. No.

51 Q I believe you testified -- correct me if I am wrong -- that during your first six weeks in heavy cleaner status you spent three-quarters of your hours working this

floor machine?

A That's true.

Q Is it true that you were working 40-hour shifts during each of those weeks?

A Right.

Q Therefore, are we to understand that you performed 180 hours of stripping or scrubbing with this machine during that period?

A That's right.

Q Isn't it true --

A I don't know if it is about -- yes. Put it that way.

Q Isn't it true that you performed approximately 51 or 52 hours of floor machine working during this period?

A I don't know.

Q You mentioned Miss Gilliam and Miss Thomas. Did you observe those ladies also using the floor machine during your training period?

A I worked with both and all of us used the machine. We will pick up so many hours. We took turns.

Q Isn't it a fact that Miss Thomas used that machine many more hours than you used it?

A Yes, because they took me off.

THE COURT: This is during the training period?

Q Is this during the traing period?

A They took us and split us off after a certain amount of weeks. So they put me on toilets and they took her and put her in another building, so I don't know what she did, but I know what I did. We were split.

Q Isn't it true that Miss Thomas performed more hours with the stripping machine than you did?

A I don't know.

Q It is true, is it not, that Miss Thomas and Miss Gilliam completed their training periods?

A I completed mine also.

Q Is it true that Miss Gilliam and Miss Thomas were then assigned to regular heavy cleaning jobs, just as you have testified?

A That's right.

Q Is it true that they continue on those jobs right until this very moment?

A To the best of my knowledge, because they work one place and I work the other.

Q To the best of your knowledge they are still on the job at Columbia?

A Yes.

MS. GOODMAN: We stipulate to the fact that they are still employed. We have limited time.

pgs Moss-cross

Q You testified that after seven weeks of heavy cleaner status you requested transfer back to light cleaner?

A Yes, because I was harassed.

THE COURT: Strike that answer.

Q I got the impression --

A I'm sorry.

Q Was there something personal between you and Mr. --

A There was nothing personal.

Q Did you discuss that problem or whatever it was with Mr. Shervington?

A No. All I explained to him, I did not want to work under Mr. Jackson in Uris.

Q You didn't tell him the reason for that?

A No.

Q You just requested a transfer to some other building?

A That's right.

Q I suppose in Buildings and Grounds Department there are many people who ask for transfers for various reasons?

A I don't know.

Q Did you discuss your "relationship" -- if I may

use that word -- or "problem" -- if I may use that word -- with Mr. Jackson with any official at your union?

A Yes, I did.

Q When and with whom?

A I told Mr. O'Brien.

Q When did you tell Mr. O'Brien?

A When he was in the office, and he asked me did I want to bring up charges, and I told him no.

Q This is after you transferred back to light cleaner?

A Yes. He asked me if I wanted to go back.

Q Go back to heavy cleaner?

A I told him if he put me back there I could not take it.

Q Did you speak to Mr. O'Brien about the heavy cleaner job and say that the Residence Halls, as opposed to --

A No.

Q Or at Bard Hall?

A I did not.

Q Or at P and S?

A I did not. I explained they only had day shifts.

Q Or some other location within B and G that was outside the jurisdiction of Mr. Jackson? Did you discuss

that with Mr. O'Brien?

A Yes.

Q What did you say to him and what did he say to you? Fix a time for us.

MS. GOODMAN: I question the relevancy of this. Whether the plaintiff in this case went through a grievance procedure in the University or not is not relevant.

THE COURT: It may be relevant. I will permit it. Overruled.

(Record read.)

A I didn't tell him exactly what my grievances were with Mr. Jackson. I told him about the Saturday morning -- I don't know how to describe it -- the liquors.

Q The bag that broke?

A Yes. I said I had asked for a transfer but he would not give me one, so I went back to maid, and he asked me did I want to bring up charges and I said no.

Q Did you discuss the matter with anyone else within the union?

A No.

Q Did you file --

A I didn't file anything.

Q You didn't commence any grievance?

A I told them no.

Q Did you file any charges with the University against Mr. Jackson?

A No.

Q Did you file any charges with any administrative agency?

A No one.

Q Your testimony is that Mr. Shervington and Mr. Thomas treated you fairly and squarely during this period?

A Mr. Thomas and Mr. Shervington, they was fair in every respect.

Q He is still the night superintendent of B and G and, in effect, still your boss, Mr. Shervington?

A Right.

Q You mentioned part of your training that originally you were on machines and then you went off machines into toilets. Do you recall that?

A Yes.

Q What sort of toilets were you working in during this period of your heavy cleaner?

A Some time they had two johns. SIA, it was a little larger, much larger, than any other buildings.

Q These were public lavatories that we are talking about now?

A Yes.

pgs Moss-cross [420]

Q How often did you clean those lavatories? Do you recall? Once a week?

A We only had -- some nights we only had one night stands, and then we were in another building.

Q How many days or weeks did you spend cleaning these lavatories in whatever building?

MS. GOODMAN: Excuse me. She has testified as to two kinds of lavatories. If he can be more specific as to which --

Q Public lavatories, not a one-holer in the stack department. Is that right?

A Yes.

* * * * * * *

RDIRECT EXAMINATION

BY MS. GOODMAN:

* * * * * * *

Q Did you ever pick up the machine? [421]

A You never lift the machine.

Q You roll it?

A You roll the machine.

* * * * * * *

Q You said You used the piggyback vacuum. Can [422]

you describe a piggyback vacuum for us?

A Well, it is like a back-pack that they use. They have a hose on it. You put your arms through the loops and I had to do that behind the radiators and the radiators -- the radiators in the library are so close to the wall I could not get a toy broom behind it so I had to get the piggyback and do the radiators.

Q The piggyback is literally strapped to your back?

A Hooked. My arms is through it like loops and the bag is on my back.

Q And the hose?

A That's in my hand. I maneuver that.

Q How long a distance do you walk with that on your back?

A As long as the cord reaches, and then I pull it out of the socket and put it in another socket until I do all the radiators.

Q You testified using a toy broom. That's the small broom, to get into corners?

A Like a child's toy.

Q When you do that is that bending down and sweeping out corners? What do you use it for?

A Cleaning out corners and hard-to-get places where a dust mop won't reach.

RECROSS EXAMINATION [424]

XX BY MR. STITT:

Q You mentioned about maids doubling up for other maids. Are maids required to double up for janitors?

A No.

* * * * * * [449]

MISS LIBOW: I would like to call Esther Collier.

E S T H E R C O L L I E R, called as a witness by the plaintiff, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MISS LIBOW:

Q Would you state your address, Esther?

A 1430 Amsterdam Aoenue.

Q Are you presently employed?

A At Columbia University.

Q I asked you if you are employed. Are you employed?

A Yes.

Q And where are you employed?

A At Columbia University.

Q What job do you hold?

A Light cleaner now.

Q How long have you held that position?

A Since May 26, 1965.

* * * * * *

* * * * * * [451]

Q When you began to work was there a training program?

A Yes.

Q How long was the training program?

A Six weeks.

Q Who was in the training program?

A It was at that time for men and women.

Q How many men and how many women were in there?

A I am not sure, but I think it was about twelve of us, and it was about equally divided.

Q Do you remember how many men?

A I think it was about six or seven men.

Q And approximately evenly divided between men and women?

A Right.

Q What did you learn to do?

A Everything.

MR. STITT: I object, your Honor. Move to strike.

THE COURT: Yes, strike it out.

Q What kind of chores did you learn to do? You

will have to be specific.

A At that time they were training you for a maid and janitor's work. In other words, we worked together. Whatever the men did the women did also.

Q Did you learn how to use

A Yes, I did.

Q Did you learn how to use the mops?

A Yes, I did.

Q How long did it take you to use the stripping machine?

A It was like in 15 minutes I got the hang of it and I could handle it. It more or less works itself. You just guide it.

Q At that time did you apply for a job as a janitor?

A At that time I asked about it.

Q Who did you ask?

A The man that was giving the course.

Q Do you remember what his name was?

A It is on the end of my tongue but I can't recall his name. But he was a tall, heavyset fellow.

Q What did he say?

A He said it was unthinkable because Columbia would never hire women for that type of work.

MR. STITT: I move to strike that answer.

THE COURT: There is a problem of identifying who said it, but I will permit it to stand.

MISS RODENHAUSEN: Would you request the witness to speak up because we cannot hear her in the back of the room.

THE COURT: Yes, you must speak louder.

Q Did all the people in the training program with you finish the course?

A Most of the men dropped out.

Q Did all of the women finish the course?

A They did.

Q After you finished the training program where were you assigned?

A In Butler Library.

Q How many rooms were you assigned to clean?

A At that time I was covering whoever was out. In other words, I was floating.

Q What did that mean? Did you cover janitors if they were out?

A The maids only.

Q How long were you a floater?

A About three months.

Q Did you then receive a permanent assignment?

A Yes, I did.

Q What floor was that assignment to?

A The sixth floor, all except the cubicles.

Q How many rooms?

A It was a lounge, 20 offices, 5 reading rooms, a receptionist desk, and an office there, and the two corridors.

Q Could you describe those rooms for us? How big was the lounge?

A About two-thirds the size of this room, or maybe the same size.

Q And the offices?

A The office is about the size of the room on the end here.

Q The room where you have been waiting to testify?

A Yes.

MISS LIBOW: I believe that was the jury room.

THE COURT: Will you measure it at some later point and put it on the record?

MISS LIBOW: Yes.

Q The other rooms were cubicles, you say?

A I didn't do the cubicles. The others were very small rooms.

Q Did you do any classrooms?

A No, unless someone was out and we had to cover

their area.

Q What chores did you have to do?

A Pulling the garbage from the waste baskets, dusting the furniture, cleaning the ash trays, and dust mopping the floors and the corridors, and polishing the furniture. Whatever was necessary.

Q When you say that you pulled the garbage, what was in the garbage, usually?

A IBM paper, paper, soda bottles, whiskey bottles, some times urine.

You name it, it was there. Garbage, food, left over fish sandwiches, everything, the works.

Q Can you give us an idea of the range of the weight of the garbage?

A On the sixth floor the garbage get very heavy during the time of school.

Q What is very heavy?

MR. STITT: I object to the characterization very heavy, your Honor.

THE COURT: Yes, strike it out.

MISS LIBOW: Your Honor, heavy is a word that uniformly has been used very often during the course of this trial.

THE COURT: I know, and in the past whenever

anybody objected to it I sustained the objection to its use. Let's get something that is capable of objective determination.

Q Can you give us an idea in pounds how much the garbage weighed?

A At times when you fill a bag with garbage it might go as much as 25 pounds or more, until it tear the bags up and you have to clean it up and double the bags.

Q What did you do with the garbage after you pulled it out of the baskets?

A Placed in a barrel and pulled out to the elevator which I lift out and sit beside the elevator.

Q How many bags of garbage did you pull that way?

A Some nights from five to, I have had as much as ten some nights.

Q When you say you dusted, where did you dust?

A As high as I could reach, and that is a long way.

Q What kind of materials did you use?

MR. STITT: I object to "and that is a long ways", your Honor.

THE WITNESS: I am 5' 11.

THE COURT: I will let it stand.

Q And what is your weight?

A 210.

Q Did you have a dust rag that was provided to you?

A Yes.

Q Is that what you used to dust?

A Yes.

Q What else did you dust in addition to the walls?

A I dust the book shelves, the furniture, the molding, and everything that was in sight that really needed it.

Q Apart from the dust rag, what other equipment did you use?

A A vacuum cleaner, dust mop, furniture polish, Temp.

Q What kind of vacuum cleaner did you have?

A At this point I never had a vacuum cleaner of my own, I had to go from one floor to another to borrow one

Q Did you use one particular kind regularly did you use a number of different kinds?

A A number of different kinds.

Q Describe for us what kinds they were?

A I used a small Hoover, I think it is a 20, a regular upright, but it is a heavier one than I would have in my house, and I used the vacuum type also that you could even use to pick up the leaves from the street with the big balbon bag to it. ave used that, also.

Q Did you have a cart for carrying your equipment around?

A No, I had a barrel which I used, and I would tie plastic bags on the side and put them in as I needed.

Q Did you have a dust mop?

A Yes.

Q How big was the dust mop?

A I think the size of the mop is 24.

Q How much does the 24 mop weigh?

A I imagine, when it is clean, about 18 pounds, I assume.

MR. STITT: May I have that answer read back, please?

THE COURT: You may.

(Record read.)

MR. STITT: Is that referring to a 24 inch dust mop, may I enquire?

Q Is that what you are talking about?

A Yes.

Q Is that what you are talking about carrying around, or when you push it?

A The mop and the stick together, not just the empty mop.

Q At the present time are you doing the same

assignment that you were doing when you began at Columbia?

A No.

Q What are you doing now that is different?

A Instead of the lounge 20, they give it to me as alternate work, and two stacks, which is the fourth and fifth stack, and I only pull the garbage from the office area and dust mop the stack area which is about five times the size of this room, which consists of one rest room and a wall of tables and stairs and loads of book shelves, a stack area.

Q Are you cleaning bathrooms?

A One.

Q How big is that bathroom?

A It consists of one toilet, a basin, a waste basket, a paper dispenser and soap, and a mirror on the wall.

Q Do you clean that bathroom every night?

A Every other night. You pull the garbage one night, but you still have to walk the area to get to it.

Q How do you clean that bathroom?

A I use Temp, Labsol, and the regular janitor mop the janitor uses.

Q How big is that mop, do you know?

A I don't know. It is the same mop the janitor use.

Q Do you know how much it weighs?

A I think it is 18 ounces, I am not sure. I just ask for a mop and he gives me a mop, the same mop the men ask for.

Q Since you began working at Columbia has the work changed?

A Yes, it has.

Q How has it changed?

MR. STITT: May we have times and dates?

THE COURT: Surely.

Q You began working at Columbia in 1965, is that correct?

A Right.

Q And you continued to work there until the present?

A Right.

Q Can you tell us when the work began to change?

A The work began to change when Columbia University opened up their SIA building. They didn't hire any new employees, and that is when you got the extra work.

Q Do you remember when it was the SIA building was opened?

A Just a couple of years ago. The exact date I don't know.

Q How was the work changed?

A The work was alternate. They gave you more work and they made it alternate work, and by saying "alternate" you pulled the garbage in one area and you do another area complete, which made the work more.

MR. STITT: I object to that conclusion as to make it more.

THE WITNESS: Well, the work is more.

(Record read.)

THE COURT: I am not sure I understand the answer. I will strike out that last phrase.

Q Describe for us the area in the stacks that you have to clean?

A The area in the stacks are about five times the size of this room, which I dust mop, dust, pull the garbage, and clean a bathroom, which is the alternate. And with that the same night I pull the garbage in [illegible] offices and one lounge that I have to unlock and lock back, bringing down to this area, which is more.

Q Which is more what?

A More work and more walking.

MR. STITT: I object to the conclusion, your Honor.

THE COURT: I think we understand the answer now. I will let it stand.

* * * * * *

[464]

Q Have you applied for a janitor's job?

A No, I didn't.

Q Have you applied for a janitor's job since 1972?

A No, I didn't.

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Q Were you aware that women were hired as janitors in 1972?

A Yes, I was.

Q Were you aware that there was a six-week training program for women who were hired as janitors in 1972?

A Yes.

* * * * * *

CROSS EXAMINATION [469]

BY MISS BODIAN:

Q Mrs. Collier, you have testified that you are now working in Butler Library?

A Right.

Q And your regular assignment is now which floor?

A The sixth floor, fourth and fifth stacks.

Q What happens when other maids in Butler LMbrary are absent?

A The supervisor comes in and assigns you to the floors you have to cover for somebody who is out.

Q How do you include that into your night shift?

A At the beginning of the night you cover whatever area you are sent to, to pull the garbage and dust, you know, clean out the ash trays, and some times the floor area there, like fringe class rooms, they must be

done every night, and you have to even dust mop, and she will say "Well, if you can get to all on your floor, but this has to be done."

Q Apart from your regular assignment how long does the covering take in a ~~site~~ Shift?

A It depends on the size of the floor you cover.

Q So then how do you handle your regular assignment after you have covered?

A In other words, you have to cut down some of your work because it is impossible to finish it all.

Q You have testified that you do dry mopping?

A Right.

Q What kinds of areas do you dry mop?

A Office areas, corridors, reading rooms, and the stack area.

Q You also described your dry mop. Did you ever weigh your mop?

A No. Who has time to weigh a mop?

Q When your mop is clean, you testified that it weighted a certain amount. How much more does it weigh --

MR. STITT: 18 pounds is what I heard, your Honor.

THE COURT: I know that is what she testified.

THE WITNESS: I assume this is the weight of it,

after carrying something around all night.

Q Does it weigh the same when it is dirty as when it is clean?

A By no means.

THE COURT: That goes to the weight to be given the evidence.

Q Could you describe the dry mop in further detail for us? What size is it?

A It is a 24 size.

Q A 24 inch mop?

A It is about this long.

(Indicating)

Q And this long is about 24 inches?

A Right.

Q What is this?

(Indicating)

Is that the head of the mop you are referring to?

A Right.

Q Make it clear for the record because we want to have a good description.

A It is about this long and this wide.

(Indicating)

Q You are indicating about half a foot wide?

A About the size of this table.

(Indicating)

Q What is that head like?

A Fringe from a mop, but shorter.

Q Do you use this constantly? This mop when it gets dirty, do you clean it out?

A In the run of a week you are supplied with two mops, and when one gets too dirty you take it off when it becomes impossible to use it.

Q These are replaceable heads?

A Yes.

Q How frequently are these heads replaced?

A You get two every Tuesday night.

Q When you dry mop the corridors or the areas where you dry mop, what kinds of things does the mop pick up?

A Trash. Whatever is on the floor. A lot of people miss the waste basket.

Q Can you be more specific?

A Papers, paper clips, whatever there is.

Q How do you pick this trash up, and how do you dump it?

A Well, you have a toy broom, a little broom with a short handle, and a dust shovel, and when you are wearing a uniform you become indecent when you bend over

to swe p it up.

Q You have to bend over to sweep it up?

A Yes.

Q What do you do with it?

A Pick it up and put it into the barrel.

Q Could you describe this barrel to us?

A It is a round drum about the height of this stand on four wheels.

Q You also testified that you used three different types of vacuums. Are these vacuums used by janitors? Have you ever observed janitors using any of these vacuums?

A Sure.

Q All three types?

A Sure.

Q When you pull trash you testified that you emptied the trash into a barrel?

MR. STITT: By pulling trash are you referring to pushing or pulling this barrel on wheels?

MISS BODIAN: I think this is a term used frequently.

THE COURT: Let's testify what the witness means.

Q What does it mean?

A To lift the plastic bag out of the wastebaskets

into the barrel, and in the women's bathroom there is like a barrel type can there that you pull out a larger bag and you put that in, also, and in the lounge area there is a larger can they use for a waste can.

Q When you have filled up the barrel what do you do?

A Push it out to the elevator, which I lift out and sit down.

Q What do you lift out?

A A large plastic bag with the garbage, and sit it to the elevator and tie it up for the men to take down in the elevator.

Q How many times a night do you think you do this?

MR. STITT: I object to the word "think."

Q I am sorry, how many times a night do you estimate you do this?

A It all depends how heavy the garbage is times you can do it as many times as ten times.

Q You have testified that the areas you now cover are areas that you may be covering plus the sixth floor, which includes stacks. Are there any other areas that you clean?

A Whatever are I am assigned to I clean. But we do have a floor that is not replaced, that a woman died, and eventually this floor will have to be divided to

somebody because there is a cover every night for this floor.

MISS BODIAN: I think that is all I have.

CROSS EXAMINATION

BY MR. STITT:

Q Mrs. Collier, you testified about a training program.

A Yes.

Q I believe you mentioned that you were trained in the use of motor driven floor machines?

A Yes.

Q And these are machines that are used to polish floors?

A Polish floors, strip floors.

Q Isn't it a fact you did not receive such training?

A It is not a fact that I did not receive training.

Q Do you recall testifying on July 19, 1972, before the State Division of Human Rights?

A Yes, I do.

Q I will ask you if you were asked these questions and gave these answers:

"Q You testified concerning a training program which I take it you took together with men as well as women.

"A Right.

"Q I believe you testified that you were shown how to use mops.

"A Right.

"Q You used wet mops and also motor driven equipment?

"A At that time they weren't training for motor driven equipment no more than just -- you are not talking about just driving a truck?

"Q I am talking about the floor polishers.

"A Right."

Q Were you asked those questions and did you give those answers?

A At that point --

Q Just were you asked those questions and did you give those answers.

A Yes.

THE COURT: Was the witness sworn? I assume she was.

Q You were sworn, were you not, just like all the other ladies who testified?

A Yes, but at that time we were talking about a motor --

MR. STITT: I obj to anything further.

Q You also testified concerning the applications which you might or might not have made for heavy cleaner or janitor positions. I ask you: Did you ever go to the Personnel Office to apply for a janitor or heavy cleaner position prior to your testimony on July 19, 1972?

A At that time I had not applied for a janitor's job.

Q And you had seen postings for such positions, had you not?

A I had, but --

Q And you had not gone down to the Personnel Office to sign any of those notices?

A At that time I was signed up for a guard's job.

MR. STITT: I move to strike that answer.

Q I am talking about back in 1972.

THE COURT: Stricken.

Q Did you ever sign any of the posted notices you saw for janitor or heavy cleaner positions?

A No, I didn't.

Q Have you ever signed one of those notices for a janitor or heavy cleaner position right up until this morning?

A No, I didn't.

Q You testified on direct examination that you use

a 24 inch dust mop.

A Yes.

Q Do I understand your testimony to be that your best estimate as to the weight of that dust mop is 18 pounds?

A When you push it all night I am sure you could come up with it, too.

MR. STITT: I move to strike the answer, and I direct the witness to answer the question.

THE COURT: Yes.

(Question read.)

A Yes

Q Isn't it a fact, Mrs. Collier, that that dust mop weighs approximately two pounds?

A No way.

Q You testified concerning theduties that you performed as a light cleaner at Butler, and that has been your building assignment since 1965?

A Right.

Q And you dust?

A Right.

Q ~~Can~~ And you vacuum?

A Yes.

Q You dust mop?

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A Yes.

Q You wipe window sills with a rag?

A Yes.

Q And you spot clean the walls?

A Yes.

Q Only as high as you can reach?

A Right.

Q And you empty ash trays?

A Right.

Q And you empty waste paper baskets?

A Right.

Q And you put the contents of the ash trays and the waste baskets into a barrel which has a plastic liner in it?

A Right.

Q This barrel is on wheels?

A Right.

Q What is the barrel made of?

A I am not sure, really, but it is more of a -- I guess plywood, I would assume.

Q Would it be a plastic type barrel?

A I don't think it is plastic. It doesn't feel like plastic. I really couldn't say what it is made of, though.

Q It is not made of metal?

A There is metal on top and bottom, but I wouldn't say it is made of metal.

Q The stays on the top and bottom are made of metal, and the rest is of this plywood material?

A Right.

Q And when the bag inside that barrel is filled, you push the barrel to the elevator, is that right?

A Right.

Q And then you remove the plastic bag and you leave it for the janitor, is that right?

A Right.

Q And then he takes it from there on?

A Right.

Q With all of the other plastic bags?

A Right.

Q I believe you testified that you cleaned two johns, if I may use that term?

A Yes.

Q Would you describe these as small johns?

A It is the normal size john that could take quite a few in the course of a day.

MISS LIBOW: Since there was an objection to the word "heavy," I would also object.

THE COURT: I sustain the objection to the use of the word "small."

Q Are these located in the stacks?

A Yes.

Q Do they consist of one bowl?

A Yes.

Q And one sink?

A Right.

Q And you clean them every other night?

A Right.

Q How long does it take you to clean these two johns every other night?

A It all depends on the feelings of the students. Some times they can be awfully messy.

Q Would you give us your best estimate as to how long it takes you to clean these bathrooms on the nights you clean them?

Q Some nights you can do it in 15 minutes, and some times if you run into a big job where somebody had dysentery it can even take you 30 minutes.

Q Were you asked this question and did you give this response during your testimony before the State Division of Human Rights?

MISS LIBOW: Can you give us a page number,

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MR. STITT: 287.

"Q How much time do you spend cleaning the bathrooms?

"A About 15 - 20 minutes the nights that I clean it."

Were you asked that question and did you give that response?

A Right.

Q The answer then continues: "When I just pull garbage it is a 5-minute job."

And by that you are referring to the nights that you don't clean it?

MISS LIBOW: I object and ask that it be stricken. It is not relevant to the question that was asked.

THE COURT: Read it back.

MR. STITT: I would have been criticized, I believe, if I had not read it back. I read the question, and then the answer went on, and I thought I would put that on the record as well.

THE COURT: I will permit it to stand.

Q On the nights that you clean those two bathrooms, do you use a mop?

A Yes.

Q How does that compare with the dust mop to which

you have referred earlier?

A With the dust mop is dry dirt, but after pushing it up quite a bit it gets a little heavier. With a wet mop the weight is, I can imagine you can say the same because it is not as far to take it and it is not as hard.

Q Your testimony is that the wet mop that you used in the bathrooms weighs approximately the same as the dust mop which we enquired about earlier, is that right?

A What I am saying is the wet mop when you wring it out, you know, the water isn't in it as much so then you do the floor the same as the janitor.

Q When you wring out the wet mop is it about the same as the dust mop?

A No, it is a little more.

Q A little heavier?

A A little heavier. Not that much.

Q Isn't it true this wet mop weighs 18 ounces?

A I am not sure what the weight is. I said it is the same mop they give the janitors.

MR. STITT: I move to strike the answer.

THE COURT: Yes, strike the answer.

MR. STITT: Repeat the question to the witness, Mr. Reporter.

(Question read.)

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A I said it was the same mop they gave the janitors.

THE COURT: No, strike that answer. Just answer the question, Mrs. Collier.

Q Isn't it true that this wet mop weighs 18 ounces?

THE COURT: Either that is your recollection or it is not your recollection.

A The exact size of it -- in other words, I just ask for a mop. I assume it is 18 ounces.

Q Is that your best estimate, 18 ounces?

A I assume.

MR. STITT: Your Honor, to supplement this witness's testimony I would ask whether at page 280 of your testimony before the State Division of Human Rights on July 19, 1972, you were asked these questions and whether you gave these answers:

"Q Do you use a mop to clean the floor in the bathroom?

"A Yes.

"Q How large a mop is it?

"A 18 ounces."

Q Were you asked those questions and did you give those answers?

MISS LIBOW: I object to this. It is a prior consistent statement. I don't see it is particularly

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relevant on cross examination.

THE COURT: I think it has relevance in a number of areas. I will permit it to stand.

Q Were you asked those questions and did you give those answers?

A If it is on record I assume I gave those answers, but tOe exact wording from two years ago today --

Q Let me show you page 280 of your transcript, lines 10 through 14.

Have I read correctly from the transcript, Mrs. Collier?

A Yes, you did.

Q I ask you, did you give those answers to those questions?

A I did.

Q Now, you testified about vacuum cleaners on your direct examination?

A Yes, I did.

Q Are you familiar with the vacuuming equipment used by janitors?

AI have seen them used.

Q Would it be fair to describe this vacuum as a big vacuum?

MISS LIBOW: Objection, your Honor.

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THE COURT: I will sustain it. Are you going to use some text from the transcript in connection with this examination?

MR. STITT: I may have to, depending on the testimony here.

THE COURT: I will sustain it as the record presently stands.

Q Would you describe the vacuums that janitors use, beginning with the largest and heaviest type.

A Well, the one that I last used was the regular upright vacuum that you use, and prior to that Mr. Shervington brought over one that was the type that you can use to even clean the sidewalks that I used in his presence.

Q Would it refresh your recollection if I were to suggest the janitors use what you described as a big brown vacuum?

A What do you mean?

Q That doesn't refresh your recollection?

A They use all types of vacuums. They even got one they use to pick up the water.

Q Were you present when Mrs. Walker testified before the State Division of Human Rights early in the day on July 19, the day you testified?

MISS LIBOW: I have to object. He is not asking her about her own testimony, but somebody else's.

THE COURT: He is trying to refresh her recollection. Let's see where it goes. I would basically agree with you, but let's see where it goes.

Q Were you present?

A Yes.

Q I am going to ask you whether at page 292 of your testimony before the State Division of Human Rights you were asked these questions and whether you gave these answers.

"Q Are you familiar with the vacuum equipment used by janitors?

"A Yes.

"Q You heard it described this morning by other witnesses?

"A The big brown vacuum.

"Q You were present here this morning?

"A Yes.

"Q Have you ever been required to use vacuums of that sort during your work?

"A No."

Were you asked those questions and did you give those answers?

A At that time, yes.

MR. STITT: Your Honor, to be fair to this witness, and to be fair to this record, I would ask to read, again, testimony which is already in this record given by Mrs. Walker at page 183 to 184.

THE COURT: I don't think that is necessary.

I take it nobody is insisting upon that. I hear no insistence.

Q You are also familiar, are you not, with the motor driven equipment which janitors use to strip and wax floors?

A Yes.

Q Would you describe these machines for us, Mrs. Collier?

A The stripping machine is also on wheels and when you turn it on you more or less guide it so the weight has no real value.

MR. STITT: I object to the conclusion. She was asked to describe the machine.

THE COURT: Strike out the conclusion. Just describe the machine.

Q Just describe the machine for us, Mrs. Collier?

A Repeat your question, please.

MR. STITT: Read the question back, please.

THE COURT: Mrs. Collier, how much did it weigh and what did it look like?

THE WITNESS: The weight of it, I never really picked it up so I would have no estimate of the weight, but it is a round wheel-type thing with a handle that they guide around on the floor for stripping. And what other machine would you like to have?

Q And by the "they" you are referring to the janitors?

A Right.

Q And you are not required to use these floor machines, are you?

A No.

Q You testified previously, I believe, that you never applied for a janitor-heavy cleaner position at Columbia?

A Right.

Q As a matter of fact, as of July 19, Mrs. Moss was the only lady who you knew who had made such an application?

A At that time, yes.

Q Do you know of any other women as of July 19, 1972, which is prior to the training program which was the subject of testimony over my objection, and with reservation -- do you know before that date of any other

women who might have applied for a janitor or heavy cleaner position at Columbia University?

A Before Mrs. Moss applied?

Q Yes.

A To my knowledge, no.

Q Do you know any of the ladies who work in Johnson Hall in the Residence Department?

A Not personally.

Q Have you ever heard the term "maid showers" or shower maid?

A From you.

MISS BODIAN: Objection, your Honor.

THE COURT: On what ground?

MISS BODIAN: This is beyond the scope of direct.

THE COURT: I will permit it, go ahead.

Q You say you heard it from me?

A I think I heard you say it.

Q Have you heard anyone else besides me up at the University?

A No, I haven't. I have been looking for her.

Q Did I understand your testimony to be on direct examination, and also at State Division, if you were offered a job as a janitor you would take it?

A Yes.

Q I believe your answer was "Of course," before the State Division, was it not?

A Yes.

Q And you have continued to see postings since July 19, 1972, when you testified before the State Division?

A I believe I nave.

Q Have you?

A I believe I have, yes.

Q And I believe your testimony is that you didn't sign any of those postings?

A No, I didn't sign the postings.

Q I believe you mentioned that you were a shop steward of your union, Mrs. Collier?

A I have been.

Q You have been a shop steward?

A Yes.

Q Were you a shop steward in 1972?

A I was.

Q And you were a shop steward as of the date of your testimony before the State Division on July 19, 1972, weren't you?

A No. I took the job at that point because I wanted to work with the women.

Q In 1972, regardless of your status as a shop

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steward, were you a member of the union bargaining committee?

MR. DRYFOOS: Your Honor, there is no testimony on direct examination with respect to Mrs. Collier's role in the negotiating of any union contracts, and, furthermore, the only reference in the direct testimony to her connection with the union was in line of questioning with reference to the training program a Miss Nellie, a trainee, who spoke to her as a shop steward.

Further, I understand that there was an objection from counsel for Columbia University, and your Honor ruled the testimony was being allowed to come into the record, although it hasn't been admitted, that would be further briefed and you would make a decision, but only as to the state of mind of Mrs. Collier or why she didn't, or why the women went forward with the training program, or why they didn't seek employment as heavy cleaners.

Therefore, I would object to this line of questioning, and to any questioning of Mrs. Collier that wasn't the subject of the direct examination, and I believe that the questioning having to do with her sitting on the negotiating committee or questioning as to her being a shop steward is beyond the scope of the examination of counsel for the Walker plaintiffs.

* * * * * *

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Q Will you answer the question, Mrs. Collier?

A What was the question; please?

MR. STITT: Read it back to the witness, Mr. Reporter.

(Question read.)

THE COURT: It just calls for a yes or no.

A In the last -- yes.

* * * * * * *

[502]

Q Now, Mrs. Collier, I am going to show you University's Exhibit A which is in evidence, which is labeled "Supplemental Memorandum of Agreement Between the University and the Union,"signed under date of October 12, 1972.

I am going to direct your attention to paragraph 5, which I will read for those who don't have the exhibit before them.

"In addition to the 7 heavy cleaner positions that were filled by light cleaner as of August 28, 1972, Columbia agrees to create 6 additional positions in the heavy cleaner classification as soon as possible, and agrees that employees presently working as maids-light cleaner shall be afforded the first opportunity to bid these new positions in accordance with their University seniority."

I ask you, as a member of the Union's negotiating committee, were you aware of this supplemental agreement?

A I was.

Q I ask you whether or not you applied for any of the 6 jobs referred to in paragraph 5, which I jsut read to you, and if so when and where?

A At that time I didn't apply because --

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MR. STITT: I object to everything after "because."

THE COURT: Yes.

* * * * * * *

REDIRECT EXAMINATION [507]

BY MISS LIBOW:

* * * * * * *

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Q Mrs. Collier, when you took the stand before the

New York State Division of Human Rights, I questioned you about the training program the same as I did this morning. At page 277 I asked you --

MR. STITT: If your H.nor please, I don't believe this is proper redirect.

MISS LIBOW: This is to rehabilitate the witness.

THE COURT: I couldn't catch your question because of the objection to it. Go ahead with your question.

MISS LIBOW: I am reading from the transcript at page 277:

"Q What did they show you in the training program?

"A In the training program they showed you how you could dust rag, what you would be working with, and then they took you around the grounds and showed you the different buildings. They showed you how -- in fact, they showed the men and the women how to wash walls, how to clean the bathrooms, how to use the buffing machine, how to use the big suction machine to pick up the water, how to swing the mop from the shoulder so you wouldn't hurt your back, they showed me the works. I can use anything the men can use."

Was that your answer at that time?

A Yes.

Q The next question was:

"Q You learned how to use all the machines the men used?

"A All the machines.

"Q Were you taught how to use the stripping machine?

"A I could strip it, put the water down, go back and pick it up."

THE COURT: Were you asked those questions and did you give those answers?

THE WITNESS: I did.

THE COURT: All right.

Q Mrs. Collier, you testified that the dust mop that you used, which is 24, as the size, weighs 18 pounds. Is that correct?

A Yes.

Q When you talk about the weight of it are you talking about lifting it or pushing it?

A I am talking about pushing the dirt I mop with the trash

Q Is that an estimate? Is there any way you could --

A This is just an estimate in my mind. I never really weighed it.

mdkm 68 Collier-redirect [511]

Q Mrs. Collier, you said you had seen postings for January on the time clock, is that correct?

A Yes.

Q Have you ever seen a posting on the time clock for the job category shower-maid?

A No.

Q On cross examination Mr. Stitt questioned you about the vacuum cleaners you used. Can you tell us again what kind of vacuum cleaners you used?

A They are small household types vacuum cleaners and then the heavier type upright vacuum cleaners, and then they brought in this one that is a big brown vacuum cleaner that could be used outdoors as well as indoors. I have never seen the men use it.

Q When was the first time you used the brown vacuum cleaner?

A This fall. Mr. Shervington brought it over one night and said "Try it out to see if you could use it," but for indoor pulling out the furniture and all that it was impossible to work with, it was so awkward.

Transcript

* * * * * * [512]

BY MR. STITT:

Q In any event, you are not required to use motor driven equipment during your duties, are you?

A When you say "motor driven equipment," clarify what type of motor driven equipment.

Q Floor machines for vacuuming, stripping --

A The vacuum is motor driven.

Q I am talking about the ones for stripping or scrubbing.

A No.

* * * * * * [514]

MISS LIBOW: At this time, your Honor, we have no further witnesses. We intended to call somebody from the Union, but we were informed by Mr. Dryfoos they will be calling the witness, and we will question him at that time. We will reserve the right to call witnesses in rebuttal.

THE COURT: Surely.

I take it then that subject to a ruling on your documentary submission, that that is Plaintiff Walker's case in chief.

MISS LIBOW: And in addition to that, if there is some difficulty with allowing into evidence the summaries we may then need to call another witness to testify as to how those summaries were done.

THE COURT: I think as far as Columbia is concerned those summaries are admissible.

MR. STITT: We have reservations as to certain exhibits and certain portions of exhibits. Perhaps that can be thrashed out before plaintiffs rest.

THE COURT: They can rest depending upon the

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ruling on this and such further proof as may be required.

MISS BODIAN: The Secretary also has a number of reservations as to the exhibits in the plaintiff Walker case. Is it your preference this all be put off to the end of the day?

THE COURT: Do you have witnesses ready to go now, because I would be prepared to go forward with proof, if we have people who are here waiting to testify.

MISS BODIAN: We do have three witnesses waiting to testify. It was our intention to first open the Secretary's case before calling any witnesses.

MR. DRYFOOS: Before that takes place I think it would be appropriate at the end of the plaintiff Walker's case to hear argument on the Union's argument to rely, and a new argument I would like to make from the floor, which is to conform the pleadings to the proof. I think they are the same motion, and I think it would be appropriate to hearing it now rather than getting into the Secretary's case, which has nothing to do with this.

THE COURT: I would like to go forward with proof as we are gathered here, witnesses, counsel, and everybody else, so let's let the Secretary make a brief opening statement.

I enjoy hearing counsel's argument, but I must

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say I re-read again the Secretary's memorandum of law last night, and we have heard three days of proof, so I am not unfamiliar with the general area, but I will hear you. Why don't you go ahead, and I will reserve argument on all these matters until some time this afternoon.

MR. STITT: Before the Secretary starts, may the record show it would be the University's intention to oppose the Union's motion, and, second, that the University has a motion to dismiss the Walker action at the close of its case.

THE COURT: I would assume that you would have such a motion, and I will give due consideration to that at such time as the Walker proof is all in.

MR. DRYFOOS: Is not the Walker proof all in at this point?

THE COURT: No, there is a question of ruling on this documentary proof.

Now, let's go ahead.

MISS RODENHAUSEN: Your Honor, there have been numerous questions raised by both the Court and the other parties, and it is our intention in our opening statement to try to reach some of these issues, and I think it would be worth the time to give an opening statement.

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Congress has sought to remedy the serious endemic problems of employment and discrimination with at least two statutes, Civil Rights Act of 1964, and the 1963 Amendments to the Fair Labor Standards Act commonly known as the Equal Pay Act.

The Court has heard testimony now and received documentary exhibits, or at least documentary exhibits are still pending before the Court, to show for the most part the denial of employment opportunities to certain female workers because of their sex in the case of Walker vs. Columbia University.

The Secretary of Labor will now commence offer of evidence in his case, in chief alleging violations of the Equal Pay Act. That proof will focus not on the lack of opportunity to do certain tasks, not on the capabilities of individual men and women to perform certain tasks, but will focus on actual performance of men and women in the performance of their jobs on the Morningside Heights campus of Columbia University.

We have brought this action under Section 17 of the Fair Labor Standards Act to enjoin the defendants Columbia University and Professor William J. McGill --

THE COURT: Before you leave that, what is it you are going to prove through witnesses? Keep in mind

an opening statement -- and here I would appreciate help -- is an outline or a guideline or a road map to me as a tryer of the facts, so I can get some idea of where you are going.

What are you going to have your people say?

MISS RODENHAUSEN: That is precisely what I am going to address myself to, your Honor.

In order to make out a prima facie case on the Secretary's allegations that defendants have been violating the Equal Pay Act, the law is plain that the Secretary's burden of proof on this issue is the different wages of pay to men and women doing custodial work, and that this custodial work done by the men and women is substantially equal. The nature of the proof we will offer will conform to the standards that the Courts have applied in defining the statutory words "equal work."

We will not show that the jobs the men and the women perform are identical, nor are we required to offer this kind of proof. The uniformly recognized legal standard to be met is proof that the jobs are substantially equal.

We will show that men and women perform various kinds of routine cleaning tasks. Employees of both sexes are engaged in cleaning buildings. Their specific

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assignments we will show require an equal amount of pushing, lifting, carrying, bending, and stretching. We will show that men and women perform duties of such a closely related character that they are substantially equal within the meaning of the Act.

Both men and women must get through their daily common chore of cleaning the assigned area. We will show the Court that the men, using wet mops to clean the corridors are doing their jobs, while women are pushing vacuums to clean room carpets. We will show the Court men push buckets of water on casters, while women push barrels of trash and garbage.

We will show men bending, stooping and stretching to clean washrooms while women are bending, stooping and stretching to clean office areas.

We will show that the primary function of both these sexes is to clean their work area.

To meet our burden of substantial equal work we need not show the work performed by all the women is equal to the work performed by all the men. It is enough that we show that the maids' work is substantially equal to that performed by some of the men, because all of the men are paid at the higher rate.

Plaintiff will show that the pattern of work

that is performed by approximately 160 male custodial cleaners, and that pattern of work performed by approximately 110 custodial females on the Morningside Heights campus in more than 40 buildings of varying size and functions is substantially equal.

We will show the manner of cleaning and the volume assigned to be cleaned varies not because of the sex of the workers, but because of the physical makeup of building and the floors assigned, and the amount of employees assigned, and the shift to which an employee is assigned. That is what determines their work. And yet sex is what determines the rate of these employees.

For example, in a carpeted building maids spend a considerable part of their time vacuuming, whereas in a floor tiled building they can spend an equivalent amount of their time pushing a dry mop. Both the vacuuming and the dry mopping, the Secretary will show, and we do indeed contend, requires the maid to move furniture and to exert the same kinds of effort that a man is exerting when he is pushing a wet mop on a tiled floor.

The polishing of desks, which is a part of the female job duty, we will contend and we will show the Court, is the same as the men when they polish the brass on the door knob of a door. Some maids, we will show,

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do wash bathrooms and kitchens. Nearly all maids, we will show, pick up and empty trash from each area and carry or drag it to a central area where janitors then take that very same trash down to the elevator and bring it out to the street. It is merely a difference in the location of their work, and not in the effort that they spend in dragging this trash and emptying it from rooms or from the building.

The areas of the work here do vary. The Court will hear testimony on differences in working conference rooms and classrooms and lounges, and offices in dormitory rooms, in stairways, corridors, large public bathrooms, and small private bathrooms, hallways, kitchens, lavatories.

We will show the general cleaning routine function engaged in by the janitors in these very same work areas as the maids show no substantial difference here within the meaning of the Equal Pay Act.

There can be no clear pattern, as defendant has argued, that the janitor work is confined to frequently used public areas while maids clean only private areas.

Furthermore, the basic quality of the custodial tasks cannot be negated by performance of the jobs in a

different department or a location so long as all the work is done in the same establishment, which here is the Morningside Heights campus.

The actual duties of the janitors and the maids do require the use of different machines, equipment, different products, different machines. Again, this kind of proof does not show the jobs are not substantially equal. Indeed, Courts have held, and we will show here, that the physical input of men in running a scrubbing and buffing machine in classrooms and hallways is no more than the physical effort required for a female job of washing down furniture. Indeed, as recently as three weeks ago the Ninth Circuit affirmed Patterson vs. San Diego, and we will provide the Court with a copy of this decision as soon as it is available.

Courts have equated, and we will show here, the effort of moving supplies is balanced by the regular female work of shoving furniture, pushing brooms, mops, carrying supplies to their work area.

Courts have equated also, and we will show here, the equality of effort expended in men using wet mops with women using dry mops, in a team of men pushing a garbage truck and a single woman dragging bags of trash for an entire floor.

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The Secretary can show here that there are different kinds of effort being expended in different ways on the two jobs, and still meet our burden of proof that the jobs are substantially equal.

We will call people to testify to the different kinds of activities that they perform in their custodial work and that they spend different amounts of time doing these chores.

In order for this Court to properly apply the equal work criteria, it must be presented with proof of the characteristics of all the jobs being compared over the full work cycle that these people perform their work. The Court must be able to have the facts, to scrutinize the job as a whole, to hear testimony on the variety of work which is performed at Columbia University campus, and to learn what are the actual job requirements and the effort, skill and responsibility actually needed to perform each of these tasks.

The Court will hear testimony on differences in equipment used by men and women cleaners. There will be testimony on the differences in time, there will be testimony on the differences in assignment. We ask the Court in hearing this testimony to look at the significance the defendants have placed on these differences in settin

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wage levels for male and female cleaners. Have they taken into account these particular jobs in assigning a wage rate, or do in fact all women and men get paid one rate regardless of the duties they perform?

Once the Secretary has carried his burden of proof that Columbia pays employees of one sex more than employees of the opposite sex for substantially equal work, the structure of the Act, the legislative history and the case law under it, uniformly indicate that the burden of proof then shifts to the employer to show the pay differential is justified under one of the Act's four statutory exceptions.

Here there is no serious contention, or at least the pleadings do not give the Secretary notice that there is a contention that their differentiation is based on a seniority system, or on a merit system, or on a system that measures earnings by quantity or quality of production. Rather, what has been placed in issue here is that Columbia denies the equality of jobs, and that the pay is based on a factor other than sex, "factor other than sex" being the catchall statutory exception.

The defendant cannot here show a job classification system based on job content or even job description.

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The Secretary will show that the classification system used by Columbia is now and always has been based on sex, even before the rates of these custodial cleaners were contractually set by collective bargaining in 1945.

All employees classified as janitors were men, all employees classified as maids were and are women.

The law is clear on this type of job stereotyping that the Court must scrutinize with a special care any situation where employees of only one sex have been concentrated in the lower grade of a wage scale, while all employees of the opposite sex are paid at a higher rate. We will show that the men have been paid at a higher rate since 1945. Here all men custodial workers still receive 45 cents an hour more than the maids. What we have, and what we will show the Court, is a situation not of janitor and maid rates, but a situation of male rates and female rates that has no relationship to job content.

These rates have continued throughout the years, and are only paid by sex.

Once the Secretary shows this historic differentiation and this historic segregation of jobs, it is the defendants' burden of proof to come forward and show a legal justification for this pay disparity.

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The defendants cannot here meet this burden. There are individual differences in male ability and in male job assignments which we will show here, yet we don't have a range in rates for men dependent upon their ability. There can be no probative evidence that the defendant has considered any duty regularly assigned to men in determining the comparative were it to be given in terms of skill, effort and responsibility, and the comparative weight it is worth for the defendant to pay that man for his ability.

We will show that defendants' hiring practice does not screen male applicants for particular abilities and relate abilities to job functions. That is, a man is not tested to see if he can vacuum or dry mop better than he can wet mop or wash. Instead the sex of the applicant determines whether he will become a janitor and be paid at the higher rate,or whether if a woman is applicant she will be classified as a maid and paid at the lower female rate.

Defendants cannot meet their burden, also, by justifying the pay difference here and showing that the male job of heavy cleaner was finally opened to seven female applicants in August of 1972. The Supreme Court in Corning Glassworks has definitively rejected such

proof as irrelevant to cure a violation once the Secretary has met a prima face burden of proof by showing the jobs are equal. The opening up of the jobs to women does not cure the violation of the Equal Pay Act. The only cure that can be legally recognized is to equate the rates by raising the female rate to the male rate.

We have heard references so far in motions and memoranda and argument to job descriptions. The defendant has suggested that these job descriptions --

THE COURT: Let me stop you a minute. Are you saying that if you have once established that there existed an inequality of treatment as a matter of law, no matter how long ago it was, the employer can never cure this and free himself?

MISS RODENHAUSEN: If the inequality continued during the proper period that is the cause of action, and accruing in the last two or three years, that is correct.

THE COURT: Because your proceeding here was brought in April or March of 1974, and you are saying that the employer by coming in to conform with law, for argument's sake, in 1972 cannot urge that as a defense to a proceeding brought in 1974.

MISS RODENHAUSEN: Opening the jobs of heavy cleaner to women in 1972, the Secretary contends, does

not cure their violation of the Equal Pay Act, because we contend that the men and women --

THE COURT: Maybe we are talking semantics. It is a question of whether you contend or whether you say to me the law is so and so. You say the law is so and so, or you argue it is irrelevant.

MISS RODENHAUSEN: The Supreme Court decision in Corning Glass Works specifically addresses when and how an employer can cure violations of the Equal Pay Act.

THE COURT: All right.

MISS RODENHAUSEN: I think it has been resolved.

I wish to address myself briefly to the job description issue, as this will be the focus of quite a bit of testimony I anticipate.

It has been suggested so far that the job descriptions for janitor-heavy cleaner, and for maid-light cleaner will show the Court a difference in duties such that the Court will not be able to find job equality between light cleaners and heavy cleaners, and between maids and janitors.

We are going to ask the Court to look very closely at the job descriptions, the oral testimony that we will present of employees who perform these tasks. They will show the Court the job titles and the job

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descriptions used here are of such a general nature as to provide very little guidance in fact in determining whether the jobs are equal.

THE COURT: Are you going to offer proof that the job descriptions are not followed?

MISS RODENHAUSEN: Yes, your Honor. We will show that the tasks set forth in these written job descriptions do not form the basis for the wage differentiation, that there is no description in fact for heavy cleaner, a job which is in contention here. Indeed, the descriptions do not accurately set forth the duties that are performed for the period in question, which is from March 11, 1971 to date.

Even though Columbia has agreed in each collective bargaining contract to establish the job descriptions for the contract titles during each two year period that a contract covers, in fact the very job descriptions we will have in issue here are dated November 6, 1969, and they are descriptions for janitor and for maid. These descriptions do not take into account the frequency with which the listed duties are performed, or the number of employees in the job classification who actually do perform these duties.

For example, stripping floors and shampooing of

carpeting is listed as a janitor duty. The Secretary does not contend that these particular tasks are what we are equating with the female duties, nor does Columbia; we will show Columbia does pay for these two additional tasks a rate higher than the janitorial rates. They are extra duties. The fact they are listed on the job description form suggests they are performed by all janitors and are part and parcel of the janitors' work. In fact they are an additional duty performed above and beyond the regular task of cleaning, of janitors' work, which is what we are comparing to.

We will show the University has required the maids in the past to do the very same tasks that defendants now claim are male tasks listed on the male job description form.

In 1963, after passage of the Equal Pay Act, the maids were required and did in fact lock up buildings, secure buildings. They did in fact have the resporsibility for safekeeping and preserving cleaning supplies and equipment. The maids did in fact at one time clean areas of large public use, such as corridors and stairways. The maids did wet mop the floors. The maids did move furniture within the rooms. They did clean and service toilets.

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If all those periods of time they were paid at a lower rate, now we are told these particular tasks are listed on the janitor job description and they are male jobs, and men are doing them and men get a higher rate because it requires a greater effort.

THE COURT: Heavy cleaners do it, including two women, at this point.

MISS RODENHAUSEN: We do intend to call men who we believe will give the Court a complete and fair representation of what the janitors-heavy cleaners in fact do.

We argue these job descriptions are paper descriptions of duties that are offered to explain the differentiation.

THE COURT: In other words, you are saying you are going to offer proof here that the heavy cleaners don't do what is described as heavy cleaners duties, and that the light cleaners don't do what is described as the light cleaner duties, but they are somewhere both of them in the middle, is that what you are saying to me?

MISS RODENHAUSEN: No, your Honor. The job duties that are listed on what is the janitor job description, we will show the Court, some of them are duties that are the bulk of the regular working day of

the janitors. As to those duties we claim that the women perform have substantially equal duties to those, such as wet mopping, cleaning bathrooms, wiping walls, etcetera.

There are other duties listed on these job description forms that would indicate to the Court on the face of the paper that these were a regular part of the janitors' jobs, such as snow shoveling, hosing down sidewalks, use of machine equipment, stripping. We will show the Court these other duties are insignificant and are only done during a short period of the work cycle of the men. They are infrequently done, and they are not done by all of the men.

As to heavy rubbish described in the job description, we do equate the job of emptying rubbish by the men, to the job of pulling trash by the women. That is going to be the focus of our testimony.

We want to point out to the Court, though, that if defendant wishes to offer these job descriptions as their proof as to what the men do --

THE COURT: At this point all I really want is a statement from you as the spokesman for the Secretary as to what you expect your proof to show. That is really what I think is the function of an opening, and where you

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can be of greatest help to me.

MISS RODENHAUSEN: I will briefly conclude that the plaintiff will show that these other duties listed on the job description form which we claim are substantially equal are the wet mopping of the floors, the washing of the walls, the glass partitions and the blackboards, the polishing of the brass, the moving furniture within a room and removing of rubish, the dusting and washing, the cleaning of the washrooms and the toilets. These are all various routine cleaning tasks done by the men.

We will argue that the degree of effort, skill and responsibility needed to perform these tasks by the janitors and by the heavy cleaners is substantially equal and differs in no appreciable way from the tasks required to be performed by female cleaners.

THE COURT: Thank you.

We shall recess until five minutes of two.

At that time I take it the Secretary will be prepared with his first witness.

MR. STITT: Might I make a statement on behalf of the University when we return, or do you wish me to reserve?

THE COURT: Reserve, please.

mdkm 110 Sampson-direct [553]

JOHN SAMPSON, called as a witness by the plaintiff, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BERKE:

Q What is your occupation, Mr. Sampson?

A Janitor.

Q Where are you employed, sir?

A Law School.

Q Of Columbia University?

A Yes.

Q When did you begin work with Columbia?

A The 12th of September, 1973.

Q And you are currently employed there now?

A Yes.

Q Mr. Sampson, are you familiar with 55 gallon drums?

A Yes.

Q Will you tell me what they contain?

A Liquid soap and hand soap and wax.

Q Have you ever handled these 55 gallon drums?

A Yes.

Q Can you tell us how you go about handling them?

A Well, it is about four men, we lift the drums

and put them on a skid. That is it.

Q The distance you take them -- where do you take them from?

A From the basement, from about this area to that area into the room. We have a regular room that we keep all the supplies.

Q And you take them from a shelf, is that correct?

A No, on the floor. They stand on the floor. We have to lift them up, put them on the skids, and roll them into the room.

Q How far is the room to which you roll it?

A From about this area to that area. To the door there.

THE COURT: About 40 feet?

MR. BERKE: Yes.

Q When you get it to where you have rolled it, then what do you do?

A Well, we take wax from there up to different floors.

Q Before you get to that, when you put it on the skid, you do that by lifting it?

A Yes, four of us lift it and put it on the skid.

Q How high do you lift it?

A The skid is about that high from the ground.

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MR. STITT: Indicating about two and a half feet?

THE WITNESS: About that.

Q And then what do you do with the wax contained inside the drum?

A We take wax to different floors that we have to wax. Like we are going to the 8th or 9th floor, we have a pail we fill and take up to each floor.

Q You mean you don't take the 55 gallon drum up to the 9th floor?

A No.

Q How do you get the wax up to the 9th floor?

A We have a pail we fill from the drum.

Q How do you go about filling it?

A We have a spout like a faucet, we fill the pail, and then take the wax to the different floors.

Q When was the last time you lifted one of these drums?

A Approximately two months ago.

Q Two months ago?

A Yes.

Q How much time did you spend lifting it?

A I would say about fifteen minutes.

Q You were with how many men at the time?

A Four men.

Q How many drums did you lift?

A About two. Sometimes three.

Q You never lifted the drum yourself?

A No. It is too heavy.

Q You said you did it the last time I think about two months ago?

A Around that, yes.

Q How often during the time that you have been employed have you had to handle these drums?

A I would say since I have been there about three or four times.

Q Once every how many months?

A Every two, three months. Around there.

Q Can you tell us what shift you are on?

A The 12:00 to 8:15.

Q What is the first thing you do when you arrive on the job?

A At 12 o'clock I go to 1125-27 Amsterdam Avenue. I take care of two buildings there. 1125 consists of ten offices, two bathrooms, a kitchen and a campus room, and the whole place is rugged that I have to vacuum. 1127 consists of six offices, a large area with five desks, one bathroom, one kitchen and a stairway, all

carpeted.

I take the vacuum from 1125 to 1127 back and forth. Then after that I go to the Law School between 2:00 and 2:15, and I clean seven classrooms, the student lounge, the locker room. Sometimes I have to mop the 7th floor lounge and the kitchen.

MR. STITT: Your Honor, may we have the record show that this is at night rather than in the daytime.

MR. BERKE: I believe the record does show this man is on the night shift, your Honor.

THE COURT: All right.

Q You mentioned that you used the vacuum.

A Yes, at 1125-27.

Q Can you tell us what kind of vacuum that is?

A It is an Electrolux.

Q Is that an industrial vacuum?

A Well, I think so. It is one of these, you know, square small vacuums.

Q How much does it weigh?

A I think maybe about twenty pounds, or maybe less. I really don't know.

Q And how long is it?

A It is about that size.

(Indicating)

Q How high is it?

A About that.

(Indicating)

Q Are you indicating from the floor?

A Yes, from the floor the vacuum is about this high. It is one of the old fashioned Electrolux vacuums that have different attachments.

Q When you say that high, are you indicating it from the top of that base there?

A This is the floor, and the vacuum is about this high from the floor.

Q That is about eight inches high?

A Yes.

Q At 1125, what kinds of rooms do you clean?

A I have to clean the desks, vacuum the whole office that is carpeted, mop the bathroom, the toilets, the kitchen, and at 1127 is the same thing.

Q You say you mopped the bathroom. What kind of bathroom at 1125?

A 1125 has two bathrooms, a men's and ladies.

Q How big is the men's bathroom?

A Not too large. A small bathroom.

Q How many commodes?

A Two.

Q How many sinks?

A One.

Q And what must you do in there?

A I clean the bathroom, the sinks, the toilet bowls, wash the basin, and mop the floor.

Q What about the ladies room? How many commodes in there?

A In the ladies at 1125 there are two ladies rooms.

Q How many commodes in each?

A One.

Q One sink?

A Yes.

Q What are the types of rooms you clean over in 1127?

A In 1127 there is six offices, and there is a large area with five desks, and a kitchen and a bathroom.

Q What do you do in these areas?

A Clean and vacuum the rugs, clean the desks, empty the ashtrays, empty the garbage, clean the bathroom and clean the kitchen sink and the floor.

Q Where do you empty the garbage from?

A Well, I put the garbage in plastic bags and take them across the street.

Q Where do you place them?

A Across in Columbia's building, Hartley, where the man picks the garbage up from there.

Q How much does the garbage weigh?

A It is according. A few weeks ago I had a lot of books and papers. I had about twenty or thirty pounds, because there was about ten bags of books and garbage I thrown out.

Q I am sorry, I didn't hear you?

A I would say sometimes about twenty to twenty-five pounds, maybe more.

Q Does it ever weigh less?

A Yes. Sometimes it is just paper, sometimes they have a lot of old books andnewspapers and things like that.

Q How often is it at its heaviest?

A Occasionally. I wouldn't say every night. Occasionally.

Q Would you say --

A Maybe once a week or once every two weeks, or something like that.

Q How long does it take you to carry that garbage across the street?

A About five minutes.

Q At 1127, that is the building we have just been

discussing, isn't it -- let's get to the Law School. What do you do after you enter the Law School after you claen 1127?

A I have the student lounge, I sweep that out. They have a white formica table, I have to wash that off, and I have to sweep out the locker room, and then I have seven classrooms, some of them seat 197, some seat 127, 190, 90 and 60. I wash the tables off, I wash the seats off, I have to mop sometimes to pick up coffee spots.

Q You say you have to mop sometimes. Co you mop the whole floor of these classrooms every night?

A I wouldn't be able to because it is a very large area. I just pick coffee spots like. Maybe the lounge is dirty, I mop that, but in between I pick up coffee spots.

Q What do you mean by mopping up coffee stains?

A Well, you know, the students drink coffee, and as they go down the steps they drop coffee or maybe they stand and drop coffee all over, so like certain areas I have to mop. If it is not dirty and there is jsut a spot I pick up the spot because I wouldn't have time to mop the seven classrooms in one night.

Q Do you do any other mopping?

A Sometimes I mop the locker room, too.

Q The whole locker room?

A Yes. And occasionally they will send me to the 7th floor when they have a party and I have to mop that and the kitchen.

Q How often do you mop the whole locker room?

A Once or twice a week, according.

Q How long does that take?

A By the time I sweep that out and mop it over an hour.

Q Part of that hour is spent in sweeping?

A Yes.

Q What part of it is spent in mopping?

A I would say about 20 or 25 minutes.

MR. STITT: Which?

THE WITNESS: The locker room.

MR. STITT: Which part sweeping and which part mopping?

THE WITNESS: A half hour to sweep and 20 or 25 minutes to mop. It takes me an hour to do the whole thing.

MR. BERKE: Thank you, Mr. Stitt.

Q Now, what duties do you perform in the lounge of the Law School?

A They have a lot of parties. Sometimes I have

to go up there and mop the lounge and mop the kitchen after I finish the classrooms. That would be sometime between 7:30 to 8:00. I have to rush if I have a lot of work to do to get it done.

Q Do you handle trash?

A Yes.

Q How often?

A I take the trash out from the two buildings every night, 1125 and 1127.

Q Aside from that?

A No, not in Law School.

Q Why not?

A They have a guy that takes the garbage out. They have guys that take the garbage from Law School.

Q So that you don't ever touch it?

A When I sweep the locker room or the classrooms, I take that trash and put it by the elevator. They have a man that picks up all the trash.

Q Did you ever pinch hit for this fellow that takes the garbage out?

A No.

Q When he is off you don't take the garbage out?

A Occasionally, once or twice they would be short and I have to double in. You know, everybody chip in.

Q How do you go about taking it out when you pinch hit for him?

A We go from floor to floor, we bring the garbage down to the main floor, and then we set it all together, and then we have these trucks on the sidewalk we load them into the trucks and we push it up to the street and leave it on the sidewalk.

Q You push the truck yourself?

A We have two men. I push one and he push one.

Q How many bags on the truck?

A Ig holds about 30 or 35 and some on top. We have to make two or three trips.

Q When was the last time you did that?

A A month ago.

Q Did you get paid any extra for it?

A No.

THE COURT: Mr. Sampson, I gather that somebody does this every night?

THE WITNESS: They have a regular man.

THE COURT: The last time you did it was two or three months ago?

THE WITNESS: There is two regular men, but when they are out we have to fill in.

THE COURT: I understand.

Q Mr. Sampson, do you wash walls?

A No.

Q Do you polish marble or brass?

A No.

Q Do you move furniture?

A I do washing, and we have to take the furniture out of the office. That is the only time.

Q Do you ever move it around the building?

A No.

Q Do you hose sidewalks?

A No.

Q Do you shovel snow?

A No.

Q Do you change light bulbs?

A No.

Q Fluorescent tubes?

A No.

Q Do you turn on and off the ventilation equipment?

A No.

Q Do you dust?

A Dust, yes.

Q Do you wax?

A Yes.

Q How do you wax?

A Well, it is according. Sometimes we have to strip.

Q You have to what?

A Strip. We have to scrub. Use the machine. And then we wax. Sometimes we don't have to scrub, we just mop and then we wax.

Q When was the last time you scrubbed?

A The last time I scrubbed was about a little over a month.

Q How about the time before that?

A Before that, before I was assigned to the classrooms, I used to do a lot of waxing and scrubbing.

Q How long have you been assigned to the classrooms?

A A little over two months now.

Q And you scrubbed once in that period?

A Yes.

Q Did you get paid xtra for scrubbing?

A 25 cents an hour.

Q Do you do spot removal of carpeting?

A When I used to work at the SIA occasionally.

Q How many times did you do it?

A About three or four times.

MR. STITT: May we specify the period, please?

Q When was the period you worked at SIA?

Q When I was hired I started out at SIA. I worked there a little over three months and I was transferred to Law School.

Q And you say during that three month period you did some spot removal of carpeting?

A About three or four times, yes.

Q Did you shampoo carpeting?

A No.

Q Did you ever shampoo carpeting?

A No.

Q Did you clean washrooms and toilets?

A Yes.

Q Where was that?

A When I started out at the SIA I was assigned to the bathrooms.

Q With whom?

A With another guy. The two of us used to clean the bathrooms. Like one guy cleaned the wash basins, the urinals, the other guy cleaned the toilets and the floor.

Q Which did you do?

A I used to clean the wash basins and the urinals. We used to alternate. Sometimes I cleaned the wash basins and the urinals, the next night he will alternate and I will do the floors and the toilet bowls.

Q Did you ever receive and store deliveries of paper supplies?

A No.

Q Did you ever receive and store deliveries of any supplies and equipment?

A No.

Q The classroom areas that you clean now in the Law School, who cleaned them before you did?

A That was the maids' job.

MR. STITT: I object to the word "clean." I ask that counsel expand on that, please.

THE COURT: Yes, strike out the answer and rephrase the question.

Q You stated as part of your assignment that you cleaned classrooms.

A Yes.

MR. STITT: I object.

THE COURT: I believe the answer was that he swept and then he damp mopped the lecture halls.

MR. STITT: I will withdraw it.

Q Is there anyone else assigned to clean the classrooms with you at this time? Is there anyone else assigned to the classrooms at this time?

A No, I am the only person assigned at night to

clean the classrooms.

Q Before you were assigned who was assigned to clean the classrooms, do you know?

MR. STITT: I object to the use of the word "clean."

THE COURT: Sustained.

Q You have been assigned to classrooms how long?

A A few months now.

Q Before you were assigned to the classrooms, who was assigned to the classrooms?

A The maid.

Q Was there anyone else assigned to the classrooms?

A No. That maid used to clean the classrooms, and then they assigned it to me.

Q What equipment did you use?

MR. STITT: May we have building, time and place.

Q At the present time, what equipment do you use?

I use a wet mop, a dust mop, and a vacuum at the present time.

Q Do you use a rubbish drum and a dolly?

A No, I use plastic bags for the garbage.

Q Do you use hand trucks?

A No.

Q Drum trucks?

A No.

Q Platform trucks?

A No.

Q Scaffolds?

A No.

Q Stepladders?

A No.

Q Have you ever used a stepladder since you have been at Columbia?

A No.

Q Do you use a 16-foot extension light changer?

A No.

Q Do you use a wall duster pole?

A No.

Q What size broom do you use?

A We don't use brooms, we use dust mops.

Q What size dust mop?

A It is about this size,

(Indicating)

the large ones.

MR. STITT: Indicating at least 30 inches.

A Yes, we use large ones.

Q On the vacuum cleaner you use, have you ever

observed a maid using that same vacuum?

A Well, I don't know what type of vacuum. There are different types of vacuums they have. They have the standing ones, they have larger ones.

Q Do they have larger ones than yours?

A Yes.

Q Have you ever observed a maid using a larger one than yours?

A I see they use different vacuums, yes. They have different vacuums than what I use.

Q Have you ever seen a maid use one which is larger than yours?

A Yes.

Q When you were first hired, when was that?

A The 13th of September, 1973.

Q Were you put into a training program?

A No.

Q Did you ever receive any written training materials?

A No.

Q Were you ever instructed how to use a floor scrubbing machine?

A No.

Q Did you ever observe anybody else being

instructed on how to use a floor scrubbing machine?

A No.

Q How did you know what to do when you came on the job?

A The first night I came on the job one of the foremen took us in the bathroom, give us a sponge, and he put some soap in the urinal and said "This is the way I want you to clean the bathrooms," and that was the only night, and then they left it up to us.

THE COURT: Can we establish what Mr. Sampson did before he came to Columbia?

Q What did you do before you went to Columbia?

A I used to work at Metallic Art Company, washing and cleaning. I worked there for 12 years.

Q Did you ever observe another individual begin his work at Columbia?

MR. STITT: If your Honor please, "individual," that opens up a very wide category.

THE COURT: Yes, I sustain the objection to that.

Q Have you ever been instructed to teach anyone else what to do?

A Yes, there was a few guys that didn't know how to use the machine, and the foreman told me to teach them how to use the washing machine.

Q These people that you taught, were they beginning at the time you taught them?

A Yes, they were on probation.

Q What does on probation mean?

A When I started I was on three months probation, meaning if they was satisfied with my work they would keep me on. If they were dissatisfied I would be fired.

Q How did you go about teaching them how to use the machine?

A I showed them. It takes a few nights, and I showed them, but still some of them didn't cath on.

Q How many nights did you usually take to train them?

MR. STITT: I object to the use of the word "usually."

THE COURT: Yes, sustained.

Q Do you remember the name of any individual whom you instructed?

A Yes. When I used to work at SIA there was a guy named John.

Q Did John ever learn to use the machine?

A He still don't know how to use it. There is another guy now in Law School with me named Lugo, I was teaching him how. He can run it a little but not too good.

Q Have you seen John recently?

A Yes, he still works in the SIA.

Q But you say while you taught him he never learned how to use the machine?

A Yes.

Q Do you know if he is a janitor now?

A Yes, he do mostly cleaning now. He don't do much washing at SIA.

MR. STITT: May we have the word "cleaning" expanded on?

MR. BERKE: I think that is proper for cross.

THE COURT: No, I think this is your witness and he is giving a conclusion. I sustain the objection.

Q Have you seen John perform his job?

A Yes. Now he is doing four floors. He is doing the maids' work because the maid is on vacation.

Q What is he doing?

A He is doing four floors.

Q What is he doing?

A Cleaning offices, vacuuming and cleaning.

Q When you say the word "cleaning," what do you mean, sir?

A When I say the word "cleaning" I mean like vacuum the office or you clean the desk or empty the job.

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I consider that cleaning.

Q When you trained John did you give him any training manuals of any kind?

A No.

Q Did you grade him?

A Did I what? Excuse me.

Q Did you grade him? Did you give him a grade in the training program?

A Well, I showed him how to run the machine, but he didn't cath on, a couple of times.

Q But you didn't give him a mark like 100 or 95 or an A or a B.

A No.

MR. BERKE: Nothing more.

* * * * * *

CROSS EXAMINATION

BY MR. STITT:

Q Mr. Sampson, you testified that you didn't store paper supplies.

A Yes, that is right.

Q Is it true you did store 55 gallon drums?

A Yes.

Q You testified that as part of your duties you do 1125 and 1127 Amsterdam Avenue in addition to your work at the Law School.

A Yes, that is right.

Q And these are off campus locations?

A Yes.

Q Who carries your vacuum over to those buildings?

A I take the vacuum from one building to the other.

Q Does anybody go across the street with you when you work in those locations?

A No.

Q You go over by yourself?

A Yes.

Q You provide your own security protection?

A Yes.

MISS LIBOW: I object to the question.

THE COURT: Sustained.

Q Are there any University security personnel on duty at 1125 and 1127 when you are there?

A No.

Q And this is work at night?

A Yes. I start at twelve o'clock.

Q Do you carry your vacuum upstairs in those buildings?

A Yes, I take it from one building to the other.

Q And if there is a desk or a sofa to be moved, do you move it?

MR. BERKE: Objection, it is hypothesis, your Honor.

Q In those buildings.

MR. BERKE: Ask him if he has.

THE COURT: Sustained as to form.

Have you moved sofas and desks in those buildings, Mr. Sampson?

THE WITNESS: No, your Honor.

Q You testified that you do some lecture rooms at the Law School.

A I beg pardon?

Q You do some lecture rooms, lecture halls A, B, C, D, E, F and G?

A Yes, seven. Seven classrooms.

Q And A holds 197 people.

A Two seats 197, two seats --

Q That is A and B .

A Two seats 127. One seats 90, one seats 60, and I think one seats 190.

Q I think you have got them all, haven't you.

A Yes.

Q It was indicated to you a maid was formerly assigned to that area in the Law School?

A Yes.

Q And she dust mopped in that area, didn't she?

A She dust mopped and wiped the seats and wiped the desks off.

Q And you wet mopped in the same place where she used to dust mop, isn't that so?

A Yes.

Q And you so stated in your statement to the Labor Department which I hold in front of you?

A Yes.

Q Before you came to Columbia, you had worked for some twelve years with the Metallic firm?

A Metallic Art Company.

Q And you had done waxing and stripping?

A Yes, cleaning, waxing.

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Q Machine work?

A Yes.

Q And you had all that experience when you came to Columbia in September 1973?

A Yes.

Q Do you know a J. Powell at Columbia?

A That is one of the foremen.

Q Was he assigned to look over your shoulder when you first came to work for Columbia?

A He was assigned to SIA. That is when I first started out with SIA.

Q And that was in September 1973?

A Yes, the 12th of September 1973 I started there.

* * * * * *

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Q During these first four weeks were you working with the floor machines?

A Waxing machines?

Q Yes.

A Yes.

Q And were you working with mopping equipment?

A Yes, in the bathroom sometimes I did a little waxing. It varied.

Q Were you cleaning the heads at all in SIA? As a matter of fact, that was your first fulltime job.

A Yes.

MISS GOODMAN: Objection. There is the use of heads versus johns, and I think there is a slight nuance.

THE COURT: The question is withdrawn. Go ahead.

Q Have you cleaned bathrooms at SIA?

A Not only at SIA, but in Law School, too.

Q Will you describe for us the public lavatories in SIA? How large are they compared to this Courtroom, for example.

A It varies. Some bathrooms are larger than others. Some had more urinals and some had more toilet bowls and wash basins. Some are large and some are small.

Q Is there a class of bathrooms known as public lavatories in SIA, men's and women's rooms, that are open to the public?

A Yes, for the students.

Q And you were assigned to those areas while you were in SIA?

A Yes.

Q Will you describe those for us, please? First of all, how large the rooms were.

A As I said before, some bathrooms have maybe ten urinals, eleven, twelve, and eight or ten wash basins. Some may have nine, thirteen, fourteen. It varies. Some bathrooms are larger than others.

Q How about the number of stalls or bowls?

A Sometimes there may be eight or fifteen. It is according.

Q That is what it ranged from while you were in SIA?

A Yes. It ranges in different. Some were larger than others, as I said before.

Q Was there a men's and women's room on each floor of SIA that you were assigned to?

A Yes.

Q How many floors in SIA?

Q We did from the seventh to the fifteenth floor bathrooms.

Q By "we" you are referring to your partner?

A Yes, the two of us, seven to fifteen.

Q That would be approximately nine floors?

A Around that.

Q And two public lavatories on each floor?

A Yes. And then they have the lounge, the ladies room had the lounge in the front, and then a

bathroom in the back.

Q How big is that lounge?

A It was a good size lounge, with a large mirror with a seat accommodating about six people or eight.

Q What sort of work would you do inside that lounge?

A We have to clean the mirror, we wash the seat off, and mop the floors.

Q What sort of equipment would you bring with you into these lavatories that you have just described?

A We have soap, we have toilet paper, we have towels, bags to change in the bins, and a mop and a pail.

Q Do you have a wringer?

A Yes.

Q And a dolly?

A No, it is not on a dolly. We have one of these things that holds the pail.

Q A mop truck?

A It is like a truck. We push it.

Q Can you describe that truck for us?

A It is a long truck with four wheels and it has a high handle so you can push it. And we set the pail on top of that, see, and we have the wringer.

Q And you have your cleaning solution?

A Yes, we have soap, we have to change the towels, we have to put in toilet paper, and then we change plastic bags, we take the whole bag out and put in the new bags from the bins, and take out all the garbage.

Q And you and your partner would spend your entire shift cleaning these approximately eighteen johns plus one lounge?

A Yes.

Q And this had to be done nightly, did it not?

A Every night.

Q Have you ever been in the building in the day time to see these heads being used?

A I only seen them at night.

Q But they are open to the public, the students and other people, throughout the day?

A They are open to everybody during the daytime.

Q Do you know how many people are in that building in the daytime, approximately?

A Thousands.

Q You testified you helped teach other heavy cleaners?

A Yes.

Q I believe you mentioned one man named John?

A Yes, I teach John when I was at SIA, and in

Law School.

Q Who else have you taught?

A Lugo, the guy that works at Law School.

Q What did you teach him?

A To use the waxing machine.

Q Anything else?

A No. Well, that is the most important thing, the waxing machine.

Q Why do you say that is the most important thing?

A Because at that time I used to do a lot of waxing, and it is two men wax, one scrub and one pick up.

Q How does that work? Tell us who does what now?

A One put down the soap, and like I know how to use the machine, I scrub the floor, and then he picks up, and then I will put the wax on. So the foreman told me to teach him how to run the machine so we can alternate.

Q What parts of the building do you do this waxing and stripping and scrubbing?

A In different offices. Sometimes we work on the fifth floor, the seventh floor, the eighth floor, sometimes we work on the first floor, like the student lounge. Sometimes we scrub the locker room. Sometimes we used to scrub the classroom. I remember one time we scrubbed all those classrooms.

Q Using these machines?

A Yes.

Q Did you ever do the corridors?

A Yes, for graduation we scrubbed the whole lobby, the corridors, and everything.

Q Using these machines?

A Yes. It took about four or five of us. Three men were on one side scrubbing and two on the other side scrubbing.

Q How long did that take you?

A About two nights, because that is a big area.

Q You spent your whole shift working with these machines those two nights?

A Yes.

Q And you received, of course, the 25 cents additional over and above your janitor's heavy cleaning job rate?

A Yes, 25 cents an hour for scrubbing.

Q And the other men received that pay as well?

A Yes, everybody received the same.

Q And you were all heavy cleaners or janitors doing that work?

A Yes.

Q At times did the stairs in buildings like SIA

and the Law School, did they have to be wet mopped?

A The stairs?

Q Yes.

A Yes, but I never do the stairs. They have different men to do that.

Q Those are other janitors who have been charged with that duty?

A Yes.

Q And that is the janitors' job to do that stripping and that scrubbing of those stairs?

MR. BERKE: I object. Already asked and answered.

THE COURT: Sustained.

Q Do they do that work as part of their regular duties?

MR. BERKE: I object to that, your Honor.

THE COURT: I assume if he has seen them do it --

MR. BERKE: We don't know how regularly he has observed them.

THE COURT: If he has seen them do it at all, I will permit him to say he has seen them do it.

Q Have you seen them do it?

A Scrubbing the stairs?

Q Yes?

A Yes.

Q Tell us when, what you have seen.

A There are different men assigned to different parts of the building. I scrub one part of the building and other men scrub other parts of the building.

Q While you are scrubbing the lecture halls they scrub the halls and corridors?

A Yes.

Q And you have seen them do that?

A Many times.

Q Who scrubs the elevators at SIA?

A We don't scrub them because they have rugs.

Q Have you seen these other men use equipment when they have done this wet mopping of the stairs and the lobbies and the corridors?

A Yes.

Q What sort of equipment do they use?

A They have to mop the lobby every night. Some times they mop the lunch room.

Q Do they use the same mops you use for the heads?

A Yes.

Q And the dolly and the solution?

A Only like when we scrub the corridor we have this big, what do they call it, this big truck, which

one side holds water and the other soap.

Q How big was that truck?

A Longer than that table.

Q Longer than six feet?

A Yes.

Q Maybe eight feet in length?

A About that. We use that to scrub the lobby.

Q How wide is that truck?

A About this wide.

(Indicating)

Q About three feet wide?

A About that size.

MR. STITT: Thank you. Let the record show the witness indicated three feet, approximately.

Q You mentioned, also, that on occasion you help out moving the garbage?

A Yes, like when two guys is out or three guys is out we have to chip in and do their work.

Q And it is you, as another janitor, who chips in, isn't that right?

A Yes, and then sometimes I and another guy, because it takes two guys to take the garbage out.

Q Each one of you has to push one of those trucks?

A Yes.

Q Have you ever seen any woman pushing one of those trucks, either at SIA or at Law School, when filled with that garbage?

A No.

MR. BERKE: It is a double question, pushing the truck, and filled with that garbage. You can't tell what he said no to.

MR. STITT: I thought I said when filled with that garbage.

THE COURT: I think so, too.

A The women have their trucks that they put the bags of garbage in.

Q They have the carts called wastemobiles.

A They have the carts they put the garbage in, but these trucks I am talking about is very large trucks.

Q That is what I am getting at. Describe the large garbage trucks.

Q These are large trucks that hold thirty bags or more of garbage. They hold twenty-five or thirty. No woman can push that, it is hard for me to push.

MR. BERKE: I object to that as strenuously. It is a conclusion. That no woman can push that is a conclusion.

MR. STITT: I will ask the record stand as it is.

It was the Labor Department who brought Mr. Sampson in, and under oath he is answering my question.

THE COURT: It was Mr. Berke's objection to an earlier question which got us off into all this detail. You asked for an explanation as to whether it was the garbage or the truck.

MR. BERKE: My objection was never meant to allow Mr. Stitt to go into pure opinion testimony.

THE COURT: He didn't. The witness gave that as his characterization as to how hard this truck was to push. The only question you are posing to me is whether I should leave his characterization stand as having any weight.

MR. BERKE: I think that is a conclusionary statement.

THE COURT: I will reserve decision on your motion to strike.

Q Now, would you describe, first of all, the length of this truck that carried these thirty, thirty-five bags of garbage?

A I would say it was about from the end of that table maybe to about over here.

Q From the end of this table to about over here?

A No, about here. And it is about your height.

Q And I am six feet two. So it is about six feet long and about eight feet long and about six feet high?

A It is about that.

Q And how wide is this truck? Give us the third dimension. Show us with your hands, if you can.

A About this wide.

Q About three feet wide?

A About that.

Q Is it your testimony that you have pushed this trash truck when it has been filled right up to the top with bags of garbage?

A You have to push that up, take the garbage out, take the bag, and take the bag, and take the rest out.

Q How long does it take you for a round trip?

A Before we used to push it up the hill. We used to go out through the back and come up an incline. It takes about ten to fifteen minutes.

Q To push it up the hill?

A Ten minutes up the hill, and then to come back five minutes, and then fill it up.

Q How many round trips a night did you make at the Law School?

A About two trips a night.

Q And at SIA about how many trips a night?

A About the same thing. There is a lot of garbage. There is two trucks and two men.

Q And you would push one truck and the janitor pushes the other truck?

A Yes. And you make two or three trips according to how much garbage you have.

Q And it would be filled right up to the top?

A Yes, and then we put some bags on the top of it, too.

Q I believe you have testified that while you push garbage and you clean public lavatories you haven't been called upon to wash walls?

A Yes, that is right.

Q Have you seen janitors or heavy cleaners wash walls at Columbia?

A Yes.

Q Whereabouts?

A Friday night I saw a man washing the classroom wall. Not the locker room, but he washed cafeteria walls, washed walls in the hall in the lobby.

Q What sort of equipment was this man using?

A Soap, some kind of detergent, and a rag.

Q Did he have a bucket?

A Yes, a pail with this detergent and a rag.

Q I believe you testified that you haven't changed light bulbs?

A No.

Q Isn't it true that that work is done during the day?

A Yes.

Q Have you seen janitors do it during the day at Columbia?

A Yes, I saw them many times changing light bulbs in the classrooms and in the lobby.

Q Have you seen them carrying ladders into the room in order to do that?

A Yes, they have a ladder they climb in the classroom to change the bulbs.

Q How high do they have to climb on that ladder to change the bulbs?

A I don't know how many feet that ladder is. Higher than this room. The ladder could reach the top of this room. It is a very large ladder.

Q May the record show at least fifteen feet?

A It is more than that.

MR. BERKE: I object. Columbia's own equipment list gives the outside height of the ladder.

MR. STITT: I will accept this witness's testimony, and we will also have testimony in our direct case.

THE COURT: Mr. Sampson, you were asked a question earlier in which you responded that it was a real job for you to push these garbage trucks fully loaded with the stuff on top.

THE WITNESS: Yes.

THE COURT: What did you mean by it being a real job? You had to give a good shove to get it going and to keep it going?

THE WITNESS: You see, there is an incline in the back when you come out of the elevator, so you have to give a push. There is a little incline like a hill you have to push it up to get it up.

THE COURT: Do you use all your strength to get it started?

THE WITNESS: When it used to snow you had to use two men to push it up.

THE COURT: To get it started up the incline?

THE WITNESS: Yes.

THE COURT: How heavy are you, sir?

THE WITNESS: I weigh 200 pounds.

THE COURT: And you are how old?

THE WITNESS: Forty-seven.

THE COURT: And do you consider yourself in good health?

A Yes. Perfect health, thank God for that.

THE COURT: I will grant the motion to strike that testimony.

MR. STITT: I think in view of the questions the Court has just put, I don't believe the testimony is --

THE COURT: That is why I felt it having been put in the appropriate factual manner at this point, therefore the conclusory aspects Mr. Berke objected to I will strike.

* * * * * *

REDIRECT EXAMINATION

BY MR. BERKE:

Q Mr. Sampson, about those trash trucks, when they are piled high with trash how many bags are on them?

A I would say it holds approximately twenty-five, thirty bags.

Q And these bags, are they the same bags which --

A That accumulate from the different floors that the maids pull the garbage.

Q Is it now part of your job to help accumulate those trash bags?

A No, not now since I am assigned to the class. I say occasionally when the man is out sometimes I have to fill in for him, but at the present moment I am not doing that any more.

Q What do you do with the trash?

A You mean that we take outside?

Q No, when you are not filling in, on your regular job, what do you do with your trash?

A I accumulate my trash and put it by the elevator and there is two men that picks it up and takes it out.

Q How does this differ from what the maids or light cleaners do?

MR. STITT: I object -- no, I restrain myself.

A They do the same. They accumulate all the trash in these plastic bags, they tie it up, and they leave it on each floor. So he picks the garbage from each floor.

Q And how many times in the past, while you have been at the Law School, have you pushed the big trucks up the incline?

A Oh, many times. I would say maybe a dozen times or more.

Q A dozen times in the last nine months?

A Yes, or maybe more.

Q And you say it takes you ten or fifteen minutes to do this?

A To push it up the hill it takes about ten minutes, because it is an incline, you have to push. Then we take it out and we have to unload the truck to come back for more garbage.

Q And when you come back of course you are coming downhill?

A Yes.

Q And your truck is empty?

A Then we load it up again and takes it back out.

Q You say you usually do about three trips of that?

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A About two or three, according to the amount of garbage.

Q So with fifteen minutes a trip, for all the times it is about forty-five minutes?

MR. STITT: Twelve times or more, the witness said.

MR. BERKE: In nine months.

Q Let me ask you the question. Each trip, round trip, takes how long?

A As I said before, it takes about ten minutes to push up the hill, by the time you take the garbage out it is about fifteen minutes or a little more, and then about five or six minutes to get back down, and then we load it again and go back up.

Q You make how many trips?

A Sometimes two or three. That consists of how much garbage.

Q That is forty-five minutes?

A Yes.

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Q You mentioned a big truck with water and soap about as long as that table, and about three feet wide.

MR. STITT: If your Honor please, I believe we have that description in the record.

MR. BERKE: I have to refer to it, and there are several trucks. It is very hard for me, I am sorry.

THE COURT: Go ahead. You are focusing his attention on the one you are talking about. Go ahead.

Q Can you tell us how often in the year that you have been with Columbia you used that big truck?

A For the year I have been there I think I used it about three times.

Q And for what part of the time of a day did you use the big truck each time?

A At night.

Q For what part of the night?

A We scrubbed the lobby in Law School, and then we scrubbed the lobby in SIA, and then we had a big area in SIA we scrubbed. The only time we use that truck is when we have a big area.

Q Each time you used it, how many hours would you use it?

A The last time we scrubbed in Law School it took us two nights, about six men.

Q And you worked in a team each time?

A Yes, three on each side.

Q And when the truck was moved, how did you move it?

A We pushed it to the elevator and took it back downstairs.

Q It went up and down on an elevator?

A Yes.

Q How many men pushed it?

A Two.

Q You could have had six push it?

A Yes.

Q But two is all it took?

A That is right.

Q Did your supervisor tell you that it had to be pushed with only two men?

A No, he never mentioned anything. Never mentioned one, two, three or what.

Q You pushed it in that fashion because you wanted to?

A Yes.

Q Were the men that pushed it paid any more than the men that didn't push it?

A The same pay.

Q How about on this ladder that you said you observed as big as this ceiling? You have never climbed it?

A No.

Q Did you ever hold it?

A No.

Q How many times have you seen the man up on it?

A Mostly every morning they have to change light bulbs in the classroom or in the lobby.

Q Is it the same man you see on it all the time?

A Two men.

Q They are both on the ladder?

A One goes up and one holds it.

Q Is it the same man who goes up all the time?

A The man goes up on the ladder and he has a stick. Sometimes he nas to take the bulbs out and he

has to go to the top with his hand.

Q Do you know the names of the two men?

A One's name is Martinez, and the other guy's name I can't remember.

Q Does Martinez go up the ladder?

A Yes.

Q And the other man, does he go up the ladder, too?

A Yes, many times I saw both of them go up the ladder.

Q Have you ever done a trash detail as a regular part of your tasks since you have been with Columbia, the heavy trash detail?

A Well, occasionally sometimes --

Q I mean as a regular part, sir.

THE COURT: Let him answer and we will see.

Q Go on.

A I said occasionally sometimes we have heavy trash, I have to throw out a lot of papers or books.

* * * * * *

* * * * * * [613]

THE COURT: Mr. Dryfoos, I have copies of these in my chambers.

Let me ask the spokesman for the Plaintiffs Walker. Do you take the position you offered no proof against the Union?

MISS LIBOW: That is correct. We do take that position.

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MISS RODENHAUSEN: Once we feel we have established the pattern of work and the evidence is becoming cumulative, if defendants will stipulate that the testimony is cumulative at that point, and any additional witnesses would merely be --

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THE COURT: I think you are the one who has to make a determination they are becoming accumulative, and then put your witnesses on for things that are probative and not cumulative. That is your duty in the first instance.

* * * * * *

EARLENE ELLIS, called as a witness, being first duly sworn by the court clerk, testified as follows:

DIRECT EXAMINATION

BY MS. BODIAN:

Q Mrs. Ellis, where are you employed at the moment?

A At Columbia University.

Q When were you hired?

A December 14, 1969.

Q Which shift do you work on?

A The midnight shift, 12 to 8:30.

Q Your present employment, what is your job called?

A Maid.

Q Which building are you assigned to at the moment?

A The Law School.

Q How long have you been assigned to the Law School as a maid?

A About eight and a half years.

Q When you were first assigned to the Law School where was your assignment in terms of floors within the Law School?

A Well, the first floor.

Q How long did you work on the first floor, up until when?

A Up until June 30 of this year.

Q Mrs. Ellis, do you know who is assigned to that floor now? Do you know the person assigned to do work on that floor now?

A Well, I can't really say because there is no particular person assigned to that floor, but Sampson, John Sampson, he comes there to do some of the work on that floor.

Q When you were working on that floor, could you describe the areas you worked in?

A Yes. We had seven classrooms, we had three lunch halls, about 197 people, plus they have other chairs, you know, when they are overcrowded, and they have another classroom holds 190 people, and two 127, and one 130, and another one 90.

Q What other kinds of rooms did you clean in?

A The jury room, the judge room, the witness room, the information room, the locker room, and student lounge.

Q Could you tell us what work you performed in those areas?

A Well, I have to dust, dust mop the floor, polish the furniture, wash the furniture, and clean ashtrays, all lay around, dust benches in the lobby, and wash the water fountains.

Q In the classrooms, did you clean in between the

seats and on the aisle?

A Yes.

Q Could you describe the aisles for us?

A Well, in the bigger classrooms there are three aisles, steps, hugh steps, wide.

Q Steps?

A I call them steps. You have to go down the steps to clean and go between the aisles and dust mop to get the trash off the floor. But the smaller classrooms, like the 127, I have four aisles.

Q Among your duties, did you pull trash?

A Yes.

Q From all of these areas?

A From all the classrooms.

MR. STITT: Could we expand on the word "pull," what she pulls, or pushes?

THE COURT: I will leave that for cross examination. You may go ahead. Overruled.

Q Well, could you describe how you pull trash?

A We have to go in the classroom, and there are plastic bags in the trash cans. You have to just take it out and put it in the cart that we roll around.

Q Did you also empty trash from the mail room?

A Yes.

Q Could you describe that duty to us?

A Yes. The same thing. Just take the trash out of the trash can and put it in the cart.

Q What would happen, to your best knowledge, when the day janitor was absent and you had to clean that night?

MR. STITT: I object to the form of this question. I believe it may call for information and facts that go beyond the witness' knowledge.

THE COURT: Sustained as to form.

Q Were you required to pick up trash from desks and floors as well as from trash cans?

A Yes.

Q In what areas did you do this duty?

A In the whole classroom. From the tables, too.

Q Did you have a student lounge to clean on that floor, too?

A Yes.

Q Were there times when the work took you more time than ordinarily in picking up trash from the floors and tables?

A Yes, because when the four to 12 man didn't come in I had to do that work because they had no one to put in his place. At the time they did have someone to put in his [illegible] what happened to them, they just didn't

hire anyone to put in his place when he is out, so that makes me do my work plus his.

Q Where is your present assignment in the Law School?

A On the eighth floor.

Q You have been working there since you have been transferred?

A Since July.

Q Did your supervisor or any other official at the University inform you as to why you were transferred?

A No.

Q What are your cleaning duties on the seventh and eighth floors?

A Well, I have to clean the offices, dust --

Q How many offices do you have to clean?

A About 42. Plus I have the typing room. I guess they have about 40 desks in there, just about. I have to dust mop,and clean, and wash the desks, and polish the desks, and they are white tables, and they are very, you know, I have to do that every night because the tables are white.

Q Do you have other types of rooms to clean?

A Yes, I have the stacks , and I have study areas in there, I have about 12 booths.

Q Do you have classrooms?

A We have two classrooms.

Q When you clean in the classrooms, do you clean the floors?

A The board?

Q The floor.

A Yes, I have to dust mop the floor, get the trash off the floor.

Q How do you clean around the chairs?

A I have to move the chairs.

Q Do you pull trash from all these areas as well?

A Yes.

Q In the same manner as you used to in the lobby?

A Yes.

Q When you first started working for Columbia University, were you assigned to the Law School then?

A No, not really. They had house on 117th Street where S.I.A. is now, and so I used to work in two of those houses.

MR. STITT: May we specify the year, whether it was day or night?

Q At what wage?

A It was when I first started there.

Q When was that?

A In December

Q How long did you clean in those two buildings?

A I think less than a year. I don't think it was over a year.

Q What shift were you on when you were cleaning those buildings?

A The same, night, 12 to 8:30.

Q Could you describe these buildings? How tall were they?

A Three stories.

Q Did you clean bathrooms?

A Yes.

Q How many?

A Some floors they had two, two bathrooms, and others had three. You know, but just one toilet, and some contained two or four.

Q In the bathrooms did you wash walls?

A Yes.

Q Did you clean toilets and sinks?

A Yes.

Q Did you replace supplies?

A Yes.

Q Did you wet mop floors?

A Yes.

MR. STITT: I object to this testimony because it

goes back to the year 1965, which is six years before the date specified in the complaint.

THE COURT: I will take it.

Q In the two buildings, did you pull trash there as well?

A Yes.

Q Were there elevators in these buildings?

A No.

MR. STITT: I think at this time we ought to stop the leading and let her describe these buildings in detail.

THE COURT: I don't see it does any harm. Go ahead.

Q When you pulled the trash, where did you take it when you were finished pulling trash?

A Outside of the door.

Q Outside which door?

A Outside the front door.

Q On the street, you mean?

A Yes.

Q How did you get it from the third floor to the street?

A I had to pull it down the stairs.

Q Did you have to carry your equipment up and down the stairs as well?

A Yes.

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Q What did your equipment consist of?

A A pail and water and soap, mop, broom, and a carpet sweeper.

Q Did you clean stairways in this building?

A Yes.

Q How did you clean stairways?

A With the dust mop.

Q Did you lock or unlock these buildings?

A Yes.

MS. BODIAN: That's all, your Honor.

THE COURT: Any questions by Plaintiff Walker?

MS. GOODMAN: No, your Honor.

THE COURT: Mr. Stitt.

CROSS EXAMINATION

BY MR. STITT:

Q Mrs. Ellis, you mentioned there were some areas in the Law School to which you were formerly assigned which are now assigned in whole or in part to Mr. Sampson. Is that true?

A Yes.

Q Were those lecture halls A, B, C, D, E, F and G?

A Yes.

Q I believe you testified that you dust mopped in those areas?

A Yes.

Q Isn't it a fact that Mr. Sampson damp mops in those areas?

A Yes.

Q You mentioned some off campus locations at the end of your testimony, and I believe you did that work back in 1965?

A Yes.

Q And you ceased doing it in 1965?

A No, I think it was 1966.

Q 1966 you stopped working at those off-campus locations?

A Yes.

MS. BODIAN: Your Honor, I object to the term "off-campus". I believe this is a characterization of the area.

THE COURT: It has been established which buildings they are. I will overrule the objection.

MS. BODIAN: It has been established these buildings are located where the S.I.A. building now stands.

THE COURT: Isn't it an operative fact she is working as a Columbia employee at a Columbia building regardless of what it is called?

MR. STITT: That is one of the difficulties,we

go back to 1965 on a complaint which refers to 1972.

THE COURT: Overruled. Go ahead.

Q Now, the Law you worked at since when?

A 1966.

Q And you have been assigned to offices?

A No.

Q And classrooms?

A Yes.

Q And you have done work in the library stacks and cubicles?

A Yes.

Q I think you also mentioned a locker room where you dust mopped?

A That was on the first floor.

Q You no longer have that duty?

A No. But I have --

Q No, you have answered the question.

Now, going through your duties, you dust mop floors?

A Yes.

Q And you empty waste baskets into a plastic bag which is inside your cart?

A Yes.

Q And you push this cart or you pull it?

A Yes. I have to take it out.

Q Does this cart weigh about 10 or 15 pounds perhaps?

A What do you mean, the cart?

Q Yes.

Q I don't know how much it weighs.

Q In any event, when you say pulling garbage, you are referring to either pushing this cart or dragging the cart behind you on wheels?

A You push it.

Q Do you also wipe window sills?

A Yes.

Q Are you familiar with the phrase spotting the walls or spot cleaning the walls?

A Yes.

Q Do you spot clean the walls with a rag?

A Well, I don't spot walls any more.

Q When did you do it, you did it just as high as you could reach, isn't that right?

A Yes, with a rag or a sponge.

Q And only as high as you could reach?

A Yes.

Q Did you wipe window sills?

A Yes.

Q Again, only as high as you could reach?

A They are low.

Q So you have no trouble reaching those?

A No. You have to do a lot of stooping, and that's just as bad as high.

Q Do you vacuum rugs?

A Yes.

Q What sort of vacuum cleaner do you use for that?

A An upright.

Q A Hoover household type vacuum?

A I think it is a Regal. I think. I am not sure.

Q When you fill up the bags in your cart, then it also includes what you get out of ashtrays, for example?

A Yes.

Q What do you do with that bag when you want to replace it?

A You have to take it out to the cart and leave it by the elevator for the man to pick the trash up.

Q That would be the janitor or heavy cleaner who takes charge of it from that point?

A Yes.

Q So you push your cart to the elevator and you take the bag out and you leave it for the janitor?

A Yes.

Q You have told us about this cart, and you mentioned a pail. Does that pail go on your cart, also?

A Yes.

Q Is that a one-gallon pail?

A Yes.

Q And your rags go on that cart?

A Yes.

Q And your dust cloth?

A Yes.

Q And your polish and soap, does that go on the cart, also?

A Yes.

Q You mentioned a dust mop that you used in the Law School. Is that a 24 inch dust mop?

A Yes.

Q And does that weigh about two pounds?

A I guess so. I didn't weigh it. I don't know.

Q Is that your best estimate?

A I guess so.

Q Your answer is affirmative to that question?

A I said I am not sure.

Q But you would estimate about two pounds?

A I guess so. Or more. Maybe more. About four pounds, I would think.

Q Would you testify it weighs as much as 18 pounds?

A No.

Q Isn't it true that you are not assigned to lavatories at the Law School?

A No.

Q You are not assigned to those, are you?

A You mean toilets?

Q In the Law School.

A No, I am not assigned to that.

Q And are you familiar with the public lavatories at the Law School where you have been working for how many years?

A I beg pardon?

Q How many years have you been working at the Law School?

A About eight years or so.

Q So you are familiar with the public lavatories at the Law School?

A Yes.

Q Would you describe to us first of all how large they are, how long and how wide?

A You mean all of them?

Q As many as you are familiar with.

A On the first floor it is very large. I guess the ladies' room --

Q About as large as this courtroom, would you say?

A Just about.

Q And how many stalls, if I may use that term, are there in this lavatory on the first floor?

A Now, you mean the ladies' room?

Q In the ladies' room, yes, please.

A I think about 18, maybe.

Q How does that compare with the ladies' rooms on the other floors of the Law School? By the way, how many floors are there in that building?

A There are eight.

Q Is there a ladies' room or a ladies' public lavatory on each floor?

A No.

THE COURT: Mr. Stitt, would this be a good time to take our recess?

MR. STITT: I think it might, your Honor.

(Recess.)

BY MR. STITT:

Q Mrs. Ellis, just before the recess you described for me the ladies' public lavatory on the first floor of the Law School. Are you familiar with the men's public lavatory on that floor?

A No.

Q Isn't it true you are not assigned to any of these public lavatories?

A That's right, I am not assigned to them.

Q Isn't it true you are not even assigned to a private lavatory in the Law School?

A No.

Q Isn't it true that it is the janitors who are assigned to the cleaning of these lavatories?

A Yes, the janitors are.

Q Have you ever seen them do any such cleaning, Mrs. Ellis?

A Have I ever seen the janitors clean the bathrooms?

Q Yes.

A Once or twice.

Q And what sort of equipment have you seen them use?

A They have on their trucks soap, and a broom, and a sponge.

Q And two large pails for their solution?

A I have never seen them two large pails.

Q But they have the mop trucks, you have seen those?

A Yes.

Q In any event, you are not called upon to use that equipment, are you?

A No.

Q Are you assigned to any of the stairways or elevators at the Law School?

A No.

Q Is it the janitors who clean those areas?

A Yes.

Q What sort of cleaning have you seen them do on the stairways and in the elevators?

A They use polish to polish the elevators. They have rugs on the elevators, and they use the vacuum.

Q So they don't scrub the elevators?

A No.

Q Do they wet mop the stairs?

A I have never seen them wet mop the stairs.

Q In any event, assuming such stairs are ever wet mopped, it would be the janitors who would do it?

A Yes.

Q Is it true you do some dust mopping in a corridor or two of the Law School?

A Yes.

Q But it stops there, you don't do wet mopping of the corridors?

A No.

Q Who does the wet mopping of the corridors?

A The janitors.

Q Are you familiar with the term stripping?

A Yes.

Q Is that work done with a floor machine?

A Yes.

Q Have you seen janitors at the Law School use floor machines to do stripping of the corridors?

A Yes.

Q Are you called upon to do that work?

A No.

Q Are you assigned to the lobbies, the downstairs lobby of the Law School?

A No -- yes, some part of it when I was there.

Q When you were working back on the first floor?

A Yes, I was assigned to --

Q And you did dusting and dust mopping?

A I did ashtrays, and cleaned the fountains, and dusted benches in the lobby.

Q Did you use a rag to clean the fountain?

A Yes.

Q Did you have to do any wet mopping of the lobbies?

A No.

Q Who does the wet mopping of the lobbies?

A The men who are assigned to that floor.

Q That would be the janitors or heavy cleaners?

A Yes.

Q And also the stripping, and the waxing, and the

polishing?

A You mean polishing where?

Q Let's take one at a time. Is it also true that when those floors are stripped in the lobby it is the janitors who do it?

A Yes.

Q Is it true the floor machines you just testified to are also used for waxing and buffing?

A Yes.

Q And is it true that the janitors use the machines to perform that work?

A Yes.

Q You have seen them do it, haven't you?

A Yes.

MR. BERKE: I will object to this as to when and where. Mr. Stitt has objected to that many times.

THE COURT: The objection is overruled, but you may ask that.

Q When was the last time you saw a janitor wax or buff a floor anywhere in the Law School?

A It has been a long time.

Q A week, a month?

A About a year.

Q About a year ago you saw them do that?

A Yes.

Q And you have seen them on other occasions, haven't you?

A Yes.

Q And you are not required to do that work as a maid-light cleaner, are you?

A No.

MS. LIBOW: I would object to the use of the word "required".

THE COURT: I will permit it. Overruled.

Q You don't wax or buff with those machines, do you, Mrs. Ellis?

A No.

THE COURT: Does the word require mean she is not asked to do it by a superior or it is not a part of the job description that is communicated to her? Is that what you mean by that, Mr. Stitt, in rough outline?

MR. STITT: That would be a correct summary.

MS. BERKE: I object.

THE COURT: This is only so far as she knows, what she is testifying to.

MS. BERKE: She probably has her own meaning. She answered the question, and then we took Mr. Stitt's understanding of what required meant.

THE COURT: The objection is overruled.

Q You testified about leaving bags of trash at the elevator for the janitors. What do the janitors do with those bags, have you seen them?

A I just assumed they take them out and put them on the truck.

Q I don't want you to assume anything, Mrs. Ellis. Have you seen janitors picking up those bags and putting them in a truck?

A First I have to pick them up, you know.

THE COURT: That is not the question, Madam. Have you seen the janitors pick them up?

THE WITNESS: Yes, I have.

Q Are you familiar with the term trash truck?

A Yes.

Q Have you seen them put them in the trash truck?

A Yes, I have.

Q This truck is about eight feet long, perhaps?

A Maybe.

Q And may be about four or five feet wide?

A Maybe.

Q And maybe six feet high?

A Just about.

* * * * * *

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Q Are those estimates of length, width, and height that you just gave in response to my questions, are those your best estimates, Mrs. Ellis?

MS. BERKE: Objection. She gave no estimates.

THE COURT: I will allow the question.

A May I describe them?

Q Just answer the question I have just put to you, Mrs. Ellis.

A What's the question?

MR. STITT: Repeat the question to the witness, Mr. Reporter.

(Question read.)

A Yes.

Q And have you seen the janitors take these trucks down the elevator to the basement or the first floor of the Law School?

A The trucks are already in the basement.

Q Have you seen these trucks on the first floor or the ground floor loaded with gargage?

A Yes.

Q What happens to them then?

MS. BERKE: I am objecting as to time again. It is.

mdal Ellis - cross

a continuing objection.

Q After March 11, 1971, have you seen these trash trucks loaded with trash on the ground floor of the Law School?

A Yes.

Q And who is it that takes charge of those trucks?

MS. BERKE: I have to explain my objection. My objection is as to when the observation was made, or how many times, etc., not just a general view scene. I think giving a date of three years ago is not sufficient.

THE COURT: She says she has seen it within the last three years. How does that effect you?

MS. BERKE: I believe it is being offered for the fact that it is a duty done regularly and done by everyone, and when she has seen it it must have been a spot observation.

THE COURT: We are really getting very technical with objections around here.

MS. BERKE: I will withdraw it in that case, your Honor.

THE COURT: I assume trash is being taken out nightly in these buildings whether or not she has seen it, and this is a representative observation within the last three years. Do you claim it has only been done -- you don't claim, obviously, it has only been done once within the last three years.

MS. BERKE: We don't, but we don't claim it is not done by everyone.

THE COURT: Do you claim it is not representative as she has seen it?

MS. BERKE: We do represent that.

THE COURT: Then I will allow you to cross examine on that subject. Overruled.

Q Isn't it true you put bags of trash by those elevators every night?

A Yes.

Q And isn't it true that every night janitors pick up those bags and put them in these trash trucks and take them down to the bottom of the school on an elevator?

A Yes.

Q And isn't it true that every night janitors push those loaded trash trucks out of the Law School to the dumping area?

A Yes.

Q And you have seen them do it, haven't you?

A Yes, I have.

Q Are you familiar with a cleaning device known as a wet-dry vacuum cleaner?

A No.

Q Are you familiar with 55 gallon drums approximately

four feet high and maybe a couple of feet across containing cleaning solvents?

A Yes.

Q Are you required to handle such drums in the course of your duties?

A No.

Q Do you in fact handle such drums in the course of your duties?

A No.

Q The janitors handle those drums, isn't that right?

A Somebody handles them. I have never seen them.

Q You have never seen a janitor handle one of those drums?

A No.

Q In any event you are not required to handle those drums?

A No.

Q And you don't do it?

A No.

Q Whoever does do it, it is not you?

A That's right.

Q Are step ladders part of your equipment?

A No.

Q Have you ever seen any work being performed on

stepladders at the Law School, day or night?

A I can't remember.

Q You have no recollection on that?

A No.

Q In any event, you are not required to work on ladders, are you?

A No.

Q Or platforms?

A No.

Q Or heights?

A No.

Q Or do any work beyond as high as you can reach?

A No.

Q Mrs. Ellis, I don't want you to feel offended by this question but may we have your weight and height for the record?

Objection.

MS. BODIAN: Objection, your Honor.

THE COURT: I will permit it.

Q May we have an answer, please?

A My height?

Q Yes.

A I am not sure. I think I am five feet six.

Q And your weight, your best estimate.

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mdal Ellis - cross [686]

A About 160.

Q Have you seen janitor-heavy cleaner jobs posted at your time clock?

A Do you want to repeat that again?

Q Is there a bulletin board at which you punch out and in?

A Yes.

* * * * * * *

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Q Have you seen postings for openings in the janitor-heavy cleaner category on this bulletin board?

A Yes, I have.

Q Have you ever signed up for any of those postings?

A No.

* * * * * * *

RE-DIRECT BY MS. BODIAN:

Q Mrs. Ellis, do you know how many janitors work on the night shift in the Law School?

A I guess five.

Q To your best knowledge it is five?

A Yes.

Q You state that you have worked on the first floor and now you work on the eighth floor and the seventh floor. How often do you have a chance on your shift to observe janitors on the other floors in the law building?

A I don't have much time because I have so much work to do, how can I go around observing what other people are doing?

Q Okay. You have testified that you empty trash from waste baskets and you handle trash, you have handled trash on the first floor, and in your present assignment on the eighth floor?

A Yes.

Q When you pull the trash on the first floor, when you were assigned there, how did you go about doing that? After you went through each room what would you do with the trash that you had already collected?

A I had to put it in the plastic bag in my cart. The plastic bag is in my cart. I put it in there and then when it is filled I take it by the elevator.

Q How many bags would you fill in one night, for instance?

A I would estimate about five, or six maybe. Five or six.

THE COURT: Mrs. Ellis, if I understand you correctly, you have a cart on wheels that has a rim, and there is a plastic bag that is in that frame, right?

THE WITNESS: Yes.

THE COURT: You take the waste baskets and you dump them in that, and when that is filled up you wheel the whole thing to the elevator,and you tie up the top of it, and put the plastic bag near the elevator.

THE WITNESS: That's correct.

THE COURT: Thank you very much.

Q You lift it out of the rim and put it by the elevator, is that correct?

A Yes, I lift it, but I don't lift it up. There is an opening, and I have to drag it out.

THE COURT: In other words, the rim comes open and you pull it out through the side, is that it?

THE WITNESS: Yes.

* * * * * *

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F A N N I E H . M A G H E E , called as a witness, being first duly sworn by the court clerk, testified

as follows:

DIRECT EXAMINATION

BY MS. RODENHAUSEN:

Q Will you state your home address for the record?

A 1357 Washington Avenue, Bronx.

Q You are a woman, is that correct?

A Right.

Q Would you state your present occupation, please?

A Maid.

Q Where are you presently employed?

A At Columbia University College, Pupin Building.

Q When did you first commence employment at Columbia?

A 1965, January 16.

Q Where were you first assigned in 1965?

A At Bard Hall.

Q In your duties at Bard Hall did you have occasion to wet mop?

A Yes.

MR. STITT: This is a leading question and goes back to 1965.

THE COURT: Yes, and I sustain the objection.

MR. STITT: I submit Labor knows full well this woman does not perform wet mopping at this time.

THE COURT: That is a comment of counsel I will

disregard.

Q Will you describe your duties for the Court when you first commenced work in 1965 at Bard Hall?

A I was working as a maid taking care of the dormitory.

Q What did you do there?

A The dormitories I had to make up the beds first, and then after that I had to do dusting,and then the wet mopping, and also wax after the wet mopping.

Q Where are you presently assigned to work, Mrs. Maghee, in what building?

A At Pupin Building.

Q Where is Pupin Building presently located?

A 538 West 120th Street.

Q How long have you worked in Pupin Building?

A Since 1965.

Q What are your present job duties in the Pupin Building?

A When I first go into my job, sign in, I goes to the double-up floor, that's on the eighth floor.

Q What do you mean by the double-up floor?

A Double up, I begin in the tea room.

Q When you say the double-up floor on the eighth floor what do you mear?

A That's double-up. That's when they have taken someone from the floor and no replacement so they have us girls, we have to double up.

Q Do you go to the eighth floor every night?

A Every night.

Q So every night you are working with other women, is that what you are saying?

A Right.

Q What do you do on the eighth floor?

A As I say, at first I goes to the tea room and pick up the coffee containers, and I wash the tables off, and then I do my light dusting of the floor.

Q What do you dust with?

A A 24" mop.

Q How long do you spend on the eighth floor?

A I'd say about a half hour.

Q Do you do anything else on the eighth floor?

A Vacuum the rugs.

Q Do you do anything else on the eighth floor?

A No.

Q Whom do you work with on the eighth floor?

A I work with Mrs. Robertson and also Mrs. May.

Q When you say you work with Mrs. Robinson and Mrs. May --

A Mrs. Robinson is really my partner. We work together.

Q Does she also do the duties you testified you do in these work areas on the eighth floor?

A All except the tea room. I do the tea room alone.

Q Where do you go next?

A I go to the 13th floor into the lab.

Q What is your assignment on the 13th floor?

A The first I do is the lab. I pick up the heavy waste. That's where the doctors experiment on birds, and they have dead birds, and, naturally, I have to pick them up and throw them into the big cart, and from the big cart -- when I finish my whole floor I have to take that out to the elevator, and then I have to pull up the big sack to tie it up so the janitor can pick it up to take it out to Broadway.

MR. STITT: I would move to strike the word heavy from that answer.

THE COURT: Stricken.

MS. GOODMAN: Objection, because the word heavy has been used throughout testimony.

MS. RODENHAUSEN: We don't interrupt the testimony to strike out words like light or heavy.

THE COURT: When the objection is made I will rule

on it. You may ask her what she believed it weighed.

Q Mrs. Maghee, how many bags of trash do you pull --

THE COURT: As I see it, one of the things at substantial issue here factually to be established before the law can be applied to it is the relative weights of some of these things in terms of job performance. Therefore, a characterization is of no help, and it is in a critical area, so let's go into what the witness thinks a thing weighed.

Q Let me pursue the line on the garbage or the trash. Mrs. Maghee, how often do you clean the labs on the 12th floor?

A When I go into the bird room I clean out the troughs, and they put what is out of the troughs into a can that stands about this tall (indicating), and that is a heavy load.

THE COURT: I will strike the word "heavy."

Mrs. Maghee, how much do you think the load weighs?

THE WITNESS: It weighs about 150 pounds.

THE COURT: 150 pounds?

THE WITNESS: Right.

THE COURT: In one of these trash cans?

THE WITNESS: Right. Into the bird room when they clean out the troughs.

mdal Maghee - direct [703]

THE COURT: What is this 150 pounds of trash contained in?

THE WITNESS: That is when they clean the troughs out and they put like the seeds into this plastic bag, and I have to take it out in order for them to have a clean bag put in the next day.

THE COURT: So you take out the 150 pounds?

THE WITNESS: Right.

Q Mrs. Maghee, how do you take this -- what's in this trash in this can that you say is about three feet high?

A It is the seeds, like, you know, what the birds -- you know, the trash, I would say.

Q How do you empty this bag of trash?

A I actually don't just pick it up. I take it and I tilts it half and half into the big bags, two or three bags, in order so I can drag it out to the elevator.

Q How far do you take the trash from the laboratory to the elevator?

A I pick it up in the bird room from about where the stairs is over to the next room.

Q You are indicating the length of this courtroom in addition to the witness room that you were sitting in prior to testifying here?

A Right.

Q And do you drag this in a bag or wheel it?

A I drag it. I don't just pick it up. I drag it.

Q How many bags of trash do you take from the bird room to the elevator nightly?

A About three.

Q After you leave the bird room --

A I go to the 12th floor.

Q Going back to the 13th floor, do you clean the bird room and any other rooms?

A Yes, I have another section of offices.

Q What do you do in the offices?

A Like one office I have to vacuum the rugs. I have a new rug now and I have to vacuum that.

Q Where do you get your vacuum from?

A I get it from downstairs on the first floor.

Q You take an elevator down to that floor?

A Right.

Q How much of your time on this 12th floor do you spend vacuuming?

A This is the 13th floor.

Q I am sorry, the 13th floor. How much time do you spend vacuuming on the 13th floor?

A I spend at least a half hour because I have to do my dusting and clean up the offices thoroughly.

Q How much time do you spend dusting on the 13th floor?

A The whole area takes me about say a half hour.

Q Will you describe your dusting for the Court in the offices on the 13th floor?

A Will I describe what I do?

Q Yes.

A Well, yes. How many rooms, you mean?

Q Yes.

A About nine.

* * * * *

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Q Mrs. Maghee, will you tell us what you do when you dust in the offices on the 13th floor of the Pupin Building?

A Well, I dust the tables, and the doctors don't want me to move their papers, so I don't pick up the papers, I dust around. I take the cloth and hit it around the papers.

Q What is the lowest point you dust in these offices?

A I go as high as the window sills.

Q How low do you go?

A Down to the bottom of the doors and the top part of the doors. I don't go any higher.

Q What do you do on the 12th floor?

A Pick up the waste, and dusting, and dry mopping with the 24" mop.

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mdal Maghee - direct [708]

Q What kinds of rooms are on the 12th floor? Are these offices?

A They are engineer rooms. Some of the rooms are very dangerous. * * *

* * * * * *

THE COURT: Strike that out. What do you do, Mrs.

Maghee, in those rooms?

A I pick up the waste and I dust the floor.

THE COURT: And that's it?

THE WITNESS: And that's it.

Q What's the waste like in these rooms on the 12th floor?

A Mostly I have in the engineer rooms big cartons. I have to drag the big boxes out to the elevator when things have come in in the cartons. Last night, the night before last, I had a carton standing from the door to that top that one of the men asked me to take out to the elevator.

Q Would you say a carton over 12' high?

A Yes. Some of the boxes come in big enough to put four people in.

Q How far do you drag that box?

A From about here to the wall.

Q The size of this courtroom?

A Yes.

THE COURT: Approximately 40 feet.

THE WITNESS: And the carton stands as tall as that door.

Q Aside from boxes, what other kinds of trash do you pick up from the rooms on this floor?

A Small waste, like papers and containers from coffee

MR. DRYFOOS: I object to the word small and move that it be stricken.

THE COURT: It may be stricken.

Q Mrs. Maghee, are these rooms on the 12th and 13th floors locked?

A Yes.

Q How do you get into them?

A I have the keys.

Q Do you lock the rooms as you leave them each night?

A Sure. I have to lock them.

Q Do you know a Mr. Sidney Ackroff? Do you recognize Mr. Sidney Ackroff?

A Absolutely.

Q Do you know what he looks like?

A Yes.

Q Did you ever see Mr. Sidney Ackroff in Pupin?

A Not that I know of.

Q In your eight years working in the Pupin Building, has Mr. Ackroff observed you in the performance of your duties?

A No. None of the bosses. Nobody.

Q Do you know a Mr. Shervington?

A Yes. He shook my hand yesterday morning.

Q When was th last time Mr. Shervington observed you

in the performance of your duties at Pupin?

A Never. The only time I seen him I had a pleasant word with him. I saw him on Broadway yesterday morning and he was happy to see me. I don't come in contact with any of my bosses.

Q Have you ever been injured in the performance of your duties at Pupin Building in the last two years?

A Yes. As I was saying --

MR. STITT: I object to the use of the word injured, your Honor.

THE COURT: No, I will overrule that objection. Go ahead.

A Was I every injured?

Q Yes.

Q In the last two years?

A About a month ago I got blowed out of one of the engineer's rooms.

Q This was in the performance of your duties?

A Yes. About four o'clock in the morning.

THE COURT: I don't know this is relevant to this issue, that an accident occurred.

MS. RODENHAUSEN: One of the elements of job equality is the working conditions that the employee is subject to. Working conditions refers to physical hazzards, and

we will try to offer through this witness --

THE COURT: Then you have to litigate a jury case.

MS. RODENHAUSEN: No, we are merely showing the kinds of working conditions.

THE COURT: I don't know if this is a normal circumstance or an abnormal circumstance.

MS. RODENHAUSEN: The objection was to the answer.

THE COURT: I will take this proof subject to a motion to strike. Go ahead. She said she got blown out of the room. Now, what happened?

Q Tell the Court how this accident happened.

A I have been going into this engineer room for the last eight years to pick up the waste.

THE COURT: Is this the first time this ever happened?

THE WITNESS: Yes.

THE COURT: What happened?

THE WITNESS: When I opened the door this fluid just bust the door right back on me and my eyes was hurting, I couldn't see, so I ran to the phone and called Mr. Shervington and I told him about it. He asked me what room and I told him 236, and he said he would have my supervisor come over right away, and Mr. Cox came over and took me to St. Luke's Hospital. In the meantime the doctor didn't find

the chemical had done anything to me, but it didn't work effect on me until five o'clock in the afternoon when my neighbors had to hold me by my hand to deliver me to my door. I rang my door bell and told them what happened to me that night on the job and my family called the Housing Police and they called Mount Sinai Hospital and they came and rushed me over to Mount Sinai, but they couldn't work on me because they didn't know what this chemical was, but it didn't take effect on me until around between five and six.

So then I went over to Mr. Ackroff and I explained to Mr. Ackroff, when I did get back to the campus what happened and he told me to go to the company doctor, and the company doctor gave me a thorough check up, but the chemical hadn't made no movement over me because I was told if it ever hits you it goes into your lung. It probably was a frightening thing but I never saw it before. One of the students who was up there left it on.

THE COURT: He left something on?

THE WITNESS: Yes.

Q Mrs. Maghee, what kind of room is this where the explosion occurred?

A They called it the Lazer beam.

Q The what?

A Lazer beam.

Q Is it a laboratory?

A Yes.

Q Do you clean laboratories on the 12th and 13th floors?

A Yes, but not now since this happened.

Q Since this accident happened you don't clean this room?

A I don't go in that room at all.

Q Do you go into other laboratories?

A Yes.

Q How do you get in?

A I have my keys.

Q Are these rooms locked?

A Yes.

THE COURT: I take it the reason you don't go into that room is because of the memories of this experience.

THE WITNESS: They have a sign on the door for me not to come in.

Q But you do continue to clean the other laboratories on that floor?

A Yes.

THE COURT: I will leave this testimony in at this point but I would like the Secretary to give me some authority as to why an incident that occurred one time in eight years,

apparently a very unusual accident, should have any bearing on this case at all.

MS. RODENHAUSEN: We will submit a memorandum on this witness' testimony.

THE COURT: You can brief this at the end of the case, as far as I am concerned. I will leave it in, and you can brief me on it at the end of the case. If there is authority that makes it something I should give weight to, I will give it weight.

Q Mrs. Maghee, did you pick up trash when you worked at Bard Hall eight years ago?

A Yes, sure.

MR. STITT: This is ancient history, I submit.

THE COURT: Overruled.

Q Did you?

A Yes, I picked up trash.

Q Was it paper trash you picked up?

A Yes, mostly paper.

Q Would you tell us, is there any difference between the kinds of trash you pick up from these laboratories and the paper trash you picked up in the dormitories?

A No, not much difference. The heavy waste I have is really my bird room.

Q The bird room on the 13th floor?

A Right.

MS. RODENHAUSEN: Thank you very much.

THE COURT: Do Plaintiffs Walker have any questions?

MS. LIBOW: No.

THE COURT: Mr. Stitt, do you want to start?

CROSS EXAMINATION

BY MR. STITT:

Q Mrs. Maghee, as I understand it you began working for the University in 1965?

A Yes.

Q And first you were assigned for a brief time in Bard Hall?

A Yes.

Q And then also during the year 1965 you were transferred to Pipin Building, where you are still on station?

A Right.

Q Is it true while you were at Bard Hall you were on the day shift?

A Yes.

Q Where is Bard Hall located, on what street?

A Oh, they are located on what you call Haven Avenue. It has been quite some time since I was up there.

Q Is that somewhere around 125th Street?

A No, that's around Washington Heights. That's up around Medical Center.

Q You mentioned you used a 24" dust mop?

A Yes.

Q How much does that dust mop weigh, to your best estimate?

A To my best estimate when it is really loaded with dirt --

Q No, first of all when you pick it up new, how much does it weigh?

A To me I'd say it weighs about 19 pounds.

THE COURT: 19 pounds?

Q Isn't it a fact that dust mop weighs about two pounds, approximately?

A I don't know, it is pretty heavy.

Q I am going to place before you testimony just to refresh your recollection, testimony by Miss Walker --

MS. RODENHAUSEN: Before the defendant offers testimony of another witness he should ask the witness if it refreshes her recollection.

THE COURT: I will sustain the objection on another ground.

Q Does that testimony on that page which is part of this record refresh your recollection?

THE COURT: No, the objection is sustained to that.

Q Isn't it a fact that a dust mop when new weighs one and three-quarter pounds?

A You mean when it is new?

Q That's right, when you first get it out of the box.

A Yes, when it is new. I was thinking of when it was dirty, I am sorry.

Q You have answered the question.

Now, you mentioned in the bird room one of the things you have to handle is a receptacle containing items of trash?

A Right.

Q Was it your testimony that this receptacle with the trash in it weighs 150 pounds?

A Yes.

Q Is it your testimony you pick up this receptacle weighing 150 pounds?

MS. RODENHAUSEN: Objection. It is not her testimony.

THE COURT: Overruled.

A That was not my testimony. I said I tilt it.

Q And then you gradually take part of the garbage out of it in stages?

A Right. Half and half.

Q You sort of pour it into a plastic bag?

A Right.

Q And then you drag the plastic bag to the elevator, is that right?

A Yes.

Q You don't even list the plastic bag you have on the floor?

A No, I pull it.

THE COURT: Mr. Stitt, I don't think you have gotten an answer to your question. She said she doesn't lift it. You said she doesn't lift it. I don't know if you got an answer.

Q You don't lift it, you just pull it along on the floor?

A That's right. If I lift it, I hurt my back.

Q And you do this in perhaps three stages, three different bags?

A Right.

Q How long does it take you to do this overall operation, fill up the three bags and take them to the elevator?

A Oh, about five or ten minutes.

Q You mentioned a box or carton which you handled the other night that was 12 feet high?

A Right.

Q Is this a corrugated box?

A It is cardboard.

Q A cardboard box?

A Yes.

Q Not a wooden box?

A No.

Q Not a metal box?

A No.

Q Do you know what was in that box?

A I don't know what came in it, really.

Q Do you know if anything was inside it?

A No, because the gentleman was there working, he asked me to take it out.

Q You didn't require any help to take that box out to the elevator?

A No, I put it to the elevator and the janitor put it on the elevator and took it down.

Q It is the janitor who also takes custody of the bags you take from the bird room, is that right?

A Right, after I drag it to the elevator.

Q You testified about an incident in room 1236 where there was an accident for the first time in eight years that you have been working in that room?

A Right.

Q How much time did you lose from work as a result of that occurrence?

A I actually didn't lose any time.

Q Did you ever put in a claim for Workmen's Compensation as a result of that?

A No.

Q Your testimony is that following that occurrence someone besides yourself tends to cleaning inside that room 1236?

A Does someone still clean in there?

Q It is not you who cleans there any more?

A It is the engineers who experiment in there. None the workers go in there.

Q You don't, and the janitors don't?

A They have a sign on the door "Don't enter".

MR. STITT: Perhaps this might be a good time to interrupt my cross examination for lunch, your Honor.

THE COURT: All right, we will recess until five minutes after two.

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mdal

AFTERNOON SESSION - 9/19/74

BRENNAN and WALKER
vs
COLUMBIA and UNION

(Witness Maghee resumed.)

CROSS EXAMINATION CONTINUED

BY MR. STITT:

Q Mrs. Maghee, addressing ourselves to Pupin, where you have worked since 1965 --

A Right.

Q -- And at Pupin you have been assigned to a to room?

A Yes.

Q And some laboratory rooms?

A Well, the laboratory rooms is my regular floor.

Q All right. And that includes the bird room that you have testified about?

A That's my regular floor.

Q And you have also been assigned to some offices?

A Right.

Q Does that complete the areas to which you have been assigned at Pupin?

A Those are my regular floors.

Q And your duties are to empty waste baskets and ashtrays into the plastic bag which is inside your cart?

A Right.

Q You also vacuum?

A Yes.

* * * * * *

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Q Is there a Hoover vacuum?

A Yes, and it stands about this high (indicating).

Q About four feet?

A Yes.

Q An upright?

A Yes, no attachments.

Q How much does that weigh, in your estimation?

A That vacuum should weigh about at least 78 pounds.

Q 78 pounds?

A Right. It is heavy steel.

Q In addition to the 78 pound vacuum cleaner do you have rags as part of your equipment?

A With the vacuum?

Q With your cart.

A With my cart I have a sponge and a dust cloth.

Q You also have a polish?

A Yes.

Q I think I already asked you about your 24" dust mop?

A You did. You asked me that.

Q Do you also perform any work in the corridors?

A The elevator corridors?

Q The corridors, the hallways.

A I have to dust the hallways.

Q You have to dust mop the hallways in your area?

A Right.

Q Do you wet mop those?

A No, dry mop.

Q You don't have a wet mop as part of your equipment, do you?

A No.

Q Does there come a time these hallways have to be wet mopped?

A The janitor does that.

Q You have seen him do that?

A Yes.

Q Have you seen the equipment they use when they wet mop those corridors at Pupin?

A He has a wet mop, and then he waxes after in his general cleaning.

Q Does he have a mop truck? Are you familiar with a mop truck?

A He has a pail.

Q Is that on a truck?

A It is on wheels.

Q Does he have a wringer and a dolly?

A Right.

Q And a container for solution?

A Right.

Q Are you required to use any of such equipment?

A No.

MS. GOODMAN: Objection to the use of the word required.

THE COURT: Overruled.

Q Have you ever had occasion to use such equipment in the course of your duties at Pupin?

A No.

Q Who is assigned to the stairways and elevators at Pupin?

A I'd say for the last couple of years those stairs actually haven't been done.

THE COURT: Strike out the answer.

Who is assigned to do that work, if you know?

THE WITNESS: The janitor that was assigned was doing those stairways, his name was Mr. Albina.

Q Was he a janitor?

A He was a janitor.

Q On occasion have you seen these stairs being swept?

A No.

Q On occasion have you ever seen them being wet mopped?

A No.

Q During your nine years at Pupin have you ever seen anybody working on the stairs?

A I have.

Q Who have you seen and what have you seen them do?

A Mr. Carl Brown.

Q Is he a janitor?

A Yes.

Q What have you seen Mr. Brown do on those stairs, and try to specifi for us the approximate time.

A He swept them and he wet mopped them.

Q What about the elevators? Wh is assigned to the elevators?

A Mr. Carl Brown.

Q He is a janitor?

A Yes.

Q What have you seen him do in those elevators?

A He sweep them out, and he wet mop them, and he wax them.

Q Have you ever been called upon to wet mop and sweep those elevators?

A No.

Q Are there some lavatories in Pupin?

A Yes.

Q Public lavatories?

A Yes, they are public. They are lavatories for the students and the workers.

Q Are there lavatories on each floor of Pupin?

A No, not on each floor.

Q Are there public lavatories for women and public lavatories for men?

MS. GOODMAN: Objection.

THE COURT: That is the basis of the objection?

MS. GOODMAN: If we are defining it as the witness has defined it, open to students and people in the building, but it is not open to the general public.

THE COURT: Overruled. Go ahead.

MR. STITT: Please read the question.

(Question read.)

A I've seen for women, but -- are you talking about on the first floor?

Q On any floor.

A Yes.

Q Have you ever been in any of those lavatories in your nine years at Pupin?

A Yes.

Q Would you first of all describe the women's lavatories for us?

A You mean have I ever walked into one, go into one?

Q First tell us how large the women's lavatories are in Pupin, compared to this courtroom, for example?

A I have one on the eighth floor. It is not too large. I'd say it comes from over here back over to the door (indicating).

Q Maybe about 15 feet?

A Right.

Q And about how long is it?

A Not too long.

Q Give me your best estimate.

A Around?

Q About 15 feet again?

A Right.

Q Maybe twenty?

A Maybe about that.

Q If I may use that word, how many stalls in this lavatory?

A How many stools?

Q Stalls, toilets.

A Oh, there is three in this particular one.

Q Are you assigned to the cleaning of these lavatories?

A No.

Q Who is assigned to cleaning the men and women's lavatories at Pupin?

[730]

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mda1 Maghee - cross

A They have the men.

Q The janitors?

A Right.

* * * * * *

[731]

Q Have you seen them do that cleaning of those lavatories, Mrs. Maghee?

A Surely. He does them every night.

Q Tell us what you have seen them do.

A They wet mop. You know, with the wet mop, and they clean the bowls out, pick up the paper towels that are thrown into the barrels, and put clean bags in it.

110
mdal

Maghee - cross

Q What sort of equipment do they take into the john?

A You mean what they clean with?

Q Yes.

A Liquid soap.

Q Where is this liquid soap kept?

A It is in a container.

Q Is that container on a mop truck?

A Yes, on the truck.

Q And there are pails on this mop truck?

A Right.

Q You have testified before, I believe, that the janitors at Pupin wet mop the corridors?

A Yes.

Q Are you familiar with a device known as a floor machine?

A Yes.

Q Have you ever seen any floor machines in Pupin?

A Yes.

Q Where have you seen them and who has been using them?

A Mr. Carl Brown, he do the cleaning of the halls, and he do buffing, stripping.

Q Inside offices he uses this machine?

A Right.

mda1 Maghee - cross

Q Has he always used this machine out in the corridors?

A Yes.

Q That's to do what we call the stripping?

A Yes.

Q Do you have any idea how much these machines weigh?

A They are heavy machines, boy.

Q Okay, give me your best estimate.

A Gee, those big buffing machines, to me they must weigh over a hundred pounds. Because I tried one one night, I said to Brown, let me see what I can do and it was spinning me around.

Q Have you ever had any training in using that machine?

A I just did it to see if I could do it like he did it.

Q And it spun you around?

A It was carrying me this way and that way.

Q Have you ever used that machine again?

A No, I didn't touch it any more. I wasn't about to.

Q Did Mr. Brown also use that machine to wax and buff these corridors?

A Yes, he is a big tall strapping man, he can afford it.

Q How big is he?

A About your height.

Q About six, two?

A Yes.

Q How much did he weigh?

A He gained weight since he has been on vacation. He must weigh about 170, or something like that.

Q Does he also use those machines to shampoo carpets?

A Yes. He can do a floor up.

Q Have you seen him use that machine during an entire shift?

A During what shift?

Q His entire shift from 12 to eight.

A Yes.

Q On more than one occasion?

A And one man doing it, too.

Q One man?

A One man.

Q And you have seen him use it his entire shift on more than one occasion?

A Yes.

Q He does this on many occasions?

A Right.

Q For his entire shift?

A Right.

Q Who takes care of the trash after you bring it to

the elevator and remove it from your cart?

A We has a new man now. His name is Mr. Lucky.

Q Mr. Lucky?

A Yes.

Q Is he a janitor?

A Yes. He has only been with us about two weeks, three weeks now.

Q And he takes away this trash from the elevator?

A Yes.

Q How do you get -- you told us before how you dragged the bags from the bird room. Tell me now how you remove the bag from your cart after you have pushed it to the elevator?

A When I have my regular trash I push that over to the elevator and pulls it up this way, and I tilts -- the bag is on some hooks, and I takes the hooks off, and I dump it over.

Q You dump it out of your cart, do you?

A Yes, by pulling it out.

Q I see.

A Excuse me. This is what I want to say. I brought this to let you see it. When I pull this plastic bag out these are the needles from the lab.

Q Tell me about the bag. I don't want to be stuck with one of those needles.

A I want to explain it to you.

Q During the recess you can explain this to me.

MS. LIBOW: I would like to object to Mr. Stitt putting words in the witness' mouth. She said pulls it out of the cart and Mr. Stitt says dump. I think Mr. Stitt does that with some degree of regularity.

THE COURT: Why don't you bring that out on redirect?

Q You have testified you are not required and you don't use these floor machines.

A No.

Q And you don't use this mopping equipment we have just talked about?

A No.

Q Are you familiar with a device which has been called a wet-dry vacuum cleaner?

A The vacuum cleaner, the Hoover, yes.

Q No, I am talking about a wet-dry vacuum cleaner that perhaps some of the janitors use at Columbia. Are you familiar with that kind of a device?

A No.

MR. DRYFOOS: Objection to the form of the question.

MR. STITT: She answered no, and I will go on to something else.

115 [737]

mdal Maghee - cross

Q You described these mopping trucks that the janitors use, and I believe you testified you don't use those on your job.

A No.

Q Are you familiar with what is called a platform truck?

A No, none of those trucks.

Q What do the janitors do with the trash after you have left it at the elevator and the other maids have left it at the elevator?

A He goes around to all the floors and pick up the waste left at the elevator, and then he puts it in a big truck.

Q I will stop you right there and ask you to describe this truck for us.

A It is one of those big trucks they stack the garbage in to take out to Broadway.

Q Is it about four feet wide?

A Yes.

Q About how long is this truck?

A It is long.

Q About eight feet, maybe?

A Right. And it stands so tall.

Q About six feet high?

A Yes.

Q And the janitor -- is this Mr. Brown again, or someone else?

A No, this is Mr. Lucky.

Q Have you seen Mr. Lucky put bags of garbage into that truck?

A Right. That's what he has to do to take it out.

Q How high do those bags get? Do they get up to the top?

A As high as they go and even on top of the truck.

Q You can see garbage on top of the truck?

A Right.

Q What does he do with the truck after it is stacked with garbage?

A Leaves it on Broadway until the City maintenance come along like say six or 8:30 and picks it up.

Q Before we get to Broadway, he takes the truck down in the elevator, have you seen him do that?

A Right on to the street.

Q Does he push it out of the Pupin Building to Broadway?

A Yes.

Q You have seen him do that?

A Yes.

Q This is done every night?

A Every morning.

Q Towards the end of the shift?

A Right. Or before the end of the shift.

Q You are not required to push these garbage trucks?

A No, I never was told to push a truck out.

Q And you have never volunteered to do it, have you?

A No.

Q Are you familiar with 55 gallon drums of cleaning solvents? These are round barrels maybe four feet high and a couple of feet wide. Have you ever seen those?

A No, I heard of them.

Q In other words, you have never been required to work with these barrels, have you?

A No.

Q Are you required to use stepladders?

A No.

Q Do you use stepladders?

A No.

MS. LIBOW: May we have a continuing objection to the use of the word "required."

THE COURT: Yes.

MS. LIBOW: Thank you.

Q Have you ever seen a janitor on a stepladder?

A They have to get on a step ladder to put light

bulbs up.

Q Have you seen them do that?

A I seen the day man do it.

Q The day man comes in about seven o'clock or so?

A He comes in before I get off.

Q How high are these ladders?

A They are tall and long.

Q Maybe about as high as this ceiling, 15 feet?

A Not quite this high, because this is a high ceiling.

Q Maybe 12 feet? In any event, it is a janitor who goes up on that ladder?

A Yes.

Q And he changes those light bulbs?

A Yes.

Q You don't do that, do you?

A No, indeed, gee.

Q What is it?

A I said no indeed.

Q You have never had to do that, have you?

A No.

Q I don't want you to be embarrassed by these questions, but I must ask you --

MS. GOODMAN: Objection, there is no reason for that.

mdal Maghee - cross

THE COURT: Just put the question.

Q How tall are you, Mrs. Maghee?

A Five, six.

Q How much do you weigh?

MS. RODENHAUSEN: Objection, your Honor.

THE COURT: Overruled.

A 146.

* * * * * *

[744]

Q Is there a bulletin board in Pupin where you punch in and out?

A Yes, by the time clock.

Q Are there notices on that bulletin board?

A Yes.

* * * * * * [746]

Q Have you also seen postings of janitor-heavy cleaner jobs?

A I seen that.

Q Have you ever signed up for one of those jobs?

MS. RODENHAUSEN: Objection, your Honor.

THE COURT: Overruled.

A No.

* * * * * *

RE-DIRECT BY MS. RODENHAUSEN:

* * * * * *

Q Every other night when you are using your vacuum about how much of your shift do you use your vacuum?

A Of my shift?

Q Yes, in terms of hours, how many hours do you spend using your vacuum?

[751]

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mdal Maghee - redirect

A My hours runs from about I'd say an hour.

* * * * * *

[753]

BY MS. GOODMAN:

Q Have you ever received any training for your job?

A You mean when I first started working for Columbia?

Q Yes.

A Basically, I went, say, for like two nights of the training, and being I was from Bard Hall uptown I didn't have to go through the training, they put me in the building because I was working in Bard Hall uptown. I do know people that did go through training.

Q When you started working uptown at Bard Hall did you receive training?

A No, no training.

Q Have you ever been offered training on the stripping machine?

[749]

Q What period did you see Mr. Carl Brown sweeping the stairs?

[750]

A What year do you mean?

Q Yes.

A Around in 1973, '72.

Q And how often would you see him sweeping the stairs?

A I'd say like -- he used to sweep them like really often.

Q Like every night you would see him?

A The regular man used to do that every night. His name is Mr. Albina. Mr. Carl Brown would do this like when he was out. Nobody is doing the stairs now.

Q Do you use the vacuum, Mrs. Maghee?

A I use a vacuum?

Q Do you use a vacuum in the course of your duties in Pupin Hall?

A Yes.

Q How often do you use that vacuum in the course of your eight hour shift?

A Like every other night, like when my rugs is pretty bad.

[753A]

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mdal

Maghee - redirect

A No.

* * * * * *

[754]

RECROSS EXAMINATION BY MR. STITT:

Q I am going to direct your attention, if I may, Mrs. Maghee, to Plaintiffs' Exhibit 9 in evidence, which the record will show are heavy cleaner posted notices, and those who signed there are five in response in 1973. I will ask you if you have ever seen any of these notices posted on the bulletin board at Pupin?

A There is one of these on the board now.

[755]

mdsl

Maghee - recross

Q For heavy cleaner job?

A Yes.

Q Does it have this statement: "Performs heavy cleaning duties in academic research building, including any or a combination of the following" -- and then headings, "operating heavy motor driven cleaning equipment," and underneath that "stripping floors"?

A They have this whole list there.

Q And you have seen those items I have justread including those notices?

A Yes. I was reading them last night.

Q Have you ever signed up for any of those positions?

A No.

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CERTIFICATE OF SERVICE

I certify that a copy of the four volumes of this appendix was mailed to Mr. Robert S. Stitt, Thacher, Profitt and Wood, 40 Wall Street, New York, New York 10005, counsel for appellees, on this 16th day of September 1976.

Carin Ann Clauss